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United States. Congress. House.

ADDITIONAL JUDGES IN ARIZONA, CALIFORNIA, AND MICHIGAN

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HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS
SECOND SESSION

ON

ARIZONA—S. 282
CALIFORNIA—S. 1358
MICHIGAN—H. R. 12101

Serial 9—Part 2

DECEMBER 9, 1919, AND FEBRUARY 18, 1920

WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

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COMMITTEE ON THE JUDICIARY.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

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ADDITIONAL JUDGES IN ARIZONA, CALIFORNIA, AND MICHIGAN.

SERIAL 9—PART II.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Tuesday, December 9, 1919.

A subcommittee on the Committee on the Judiciary, with Hon. Joseph Walsh, of Massachusetts, presiding, met at 10.30 this morning, having under consideration S. 282, to provide an additional judge for the district of Arizona. (Other matters considered to-day are found in Part I of the hearing.)

Mr. WALSH. Mr. Hayden, you will proceed with reference to Senate 282.

[S. 282, Sixty-sixth Congress, first session.]

AN ACT Providing for an additional judge for the district of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, by and with the advice and consent of the Senate, an additional judge for the district of Arizona, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same salary now prescribed by law in respect of the present district judge therein.

SEC. 2. That the clerk of the district court for the district of Arizona and the marshal and district attorney for said district shall perform the duties appertaining to their offices, respectively, for said court.

Passed the Senate June 30 (calendar day, July 1), 1919.

Attest: GEORGE A. SANDERSON,
Secretary.
By H. M. ROSE,
Assistant Secretary.

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STATEMENT OF HON. CARL HAYDEN, A MEMBER OF CONGRESS FROM ARIZONA.

Mr. HAYDEN. Before submitting my argument I would like to have the committee hear Judge Ernest W. Lewis, of Phoenix, who served on the bench in Arizona from 1909 to 1912.

Mr. WALSH. We will be very glad to hear Mr. Lewis.

STATEMENT OF ERNEST W. LEWIS, A MEMBER OF THE BAR OF ARIZONA.

Judge LEWIS. Mr. Chairman and gentlemen of the committee, in order that you may understand who I am, perhaps the better to judge the weight you attach to what I say, I have been a practicing lawyer in Arizona since 1900. I am actively engaged in the practice of law in Phoenix, Ariz., the capital of the State, and have occasion to transact business throughout the State, as in Arizona the members of the bar have a rather scattered practice.

I was on the last Territorial bench under appointment from President Taft and needless to say I am a Republican in politics. I served on the bench four years, my district being the eastern district of the State, comprising Greenlee, Graham, and Gila Counties. The seat of the court which I held was Globe, Ariz. With the coming of statehood we had for the first time a Federal court. We have now one district comprising the State of Arizona, which speaking in a general sort of way, is about as large geographically as the whole of the New England States and New York. That court sits in four different places in the State. It sits at Prescott, Ariz., at Phoenix, at Tucson, and at Globe. It holds eight times a year, two terms six months apart in each one of those places.

The point I want to call your attention particularly to is the injustice that results to persons accused of crimes in the manner in which that court is compelled to be held. It is a matter of not infrequent occurrence in Arizona that a man accused of crime remains in jail a year without a trial and then is discharged because the evidence is insufficient to convict him. It is a matter of not infrequent occurrence in Arizona that witnesses are held for a period of so long as a year in order that they may be available for the use of the United States Government in the prosecution of its cases. The court has difficulty in disposing of the criminal business in the time allotted to its sittings in the various districts, particularly in Tucson it is impossible to reach the bailed cases frequently. The court has no opportunity of getting further than the trial of the cases in which the accused are in jail. That situation makes it frequently very difficult for the United States to get bailed cases up for trial and makes it comparatively easy for persons defending bailed cases to get those cases postponed from term to term with the result that interest is lost in the prosecution and justice is defeated. It is a rather impossible situation from any standpoint you chose to look at it. I am not now talking about the civil side of the court at all. I am talking about the criminal side of the court.

The Congress of the United States has passed so much legislation with penal consequences attached that you have so overburdened your Federal courts that it has become impossible for them to transact

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their business. I don't know but what you have made them into a grander sort of police courts. If you are going to continue your present course of passing legislation of one character and another which makes offenses ordinarily cognizable only in State courts, Federal offenses you have got to do something to relieve the situation so far as the judiciary is concerned. In Arizona we are right up against the Mexican border. We have got the narcotic cases to deal with. We have a bone-dry State where there are many, many cases arising under the Reed amendment. We have great, long transportation lines traveling through the State with a great many cases arising from robberies of freight cars; and we have a great area of that State, I would say almost one-half of the State, in reservations and under Federal regulations of one sort and another, and you have committed to your department down here in Washington the power to legislate and attach penal consequences to their legislation with the result that we are congested with cases which arise upon the forest reservations and upon the Indian reservations, which are of a police character and it takes time to dispose of.

Now, I will say this for the civil end of it. I had one case, involving title to mining propertythat was worth something over a half million dollars. That case was pending in Tucson for two years, with an impossibility of getting it up for trail. We wanted to develop the property, and although we felt we had a perfect defense to that action, which was brought, we were forced to pay $67,000 in compromise of that case, because we could not get it up for trial and could not dispose of it. You take this situation, and it arises at every term of court. The court comes to Phoenix. It has a month there in Phoenix, two weeks to three weeks of that time is devoted to criminal suits. The district judge possibly has a week to give us on civil business. You gentlemen who practice law know how easy it is for the side which doesn't want to go to "bat" to present some excuse to put that case over that week, with the result that it goes over for the term, and it is practically impossible to call a civil case up for trial in the courts of Arizona.

It is rather hard to make clear to you gentlemen who doubtless have appeals of one sort or another for relief the urgent necessity of that relief in Arizona, but I say with confidence that the United States is practically denying justice so far as its courts are concerned in Arizona by refusing action in regard to this measure.

We have been before Congress for over four years attempting to get relief. The Senate each year passed a bill, and it goes to the House, it is referred to the House Committee on the Judiciary, and the Congress dies. I don't know what the reason for the situation is. It may be possible that there are so many demands for similar legislation that it is impossible to grant them, but I say that so far as Arizona is concerned without exception the members of the bar are in accord in saying that some measure of relief must be granted if we are to have a prompt administration of justice in Arizona.

I want to direct you gentlemen's attention to a brief to provide for an additional judge in the State of Arizona which Congressman Hayden will place before you for the record. I call attention just briefly to the men who signed it. Joseph H. Kibby, president of the Arizona Bar Association, is a Republican. He was candidate for the United States Senate at the last election as against the present in-

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cumbent, Senator Ashurst. He was formerly Associate Justice of the Supreme Court of the Territory of Arizona under appointment, I think, of President Harrison. He was twice governor of Arizona under appointment from Theodore Roosevelt.

John H. Campbell, the second signer was associate justice of the supreme court of the Territory of Arizona under appointment from Theodore Roosevelt and again from President Taft. He served on the bench some eight years. Both of these gentlemen are actively engaged in practicing law in Arizona. One of them having one of the largest practices in Phoenix, Ariz., Judge Kibby, and Judge Campbell having one of the largest practices in Tucson, Ariz.

Edwin S. Jones, the third signer, a member of the committee is a Democrat, I think, from Alabama. He is actively engaged in the practice in Tucson at this time and is highly regarded as a lawyer.

I thank you, gentlemen.

The CHAIRMAN. Will you permit a question?

Judge LEWIS. Yes, sir.

The CHAIRMAN. How old is the judge that is presiding in Arizona now?

Judge LEWIS. I think Judge Sautelle is about 46 or 48 years of age.

The CHAIRMAN. How many sittings of the court do they have there?

Judge LEWIS. In Tucson?

The CHAIRMAN. No; in Arizona?

Judge LEWIS. Eight, and sometimes special terms.

The CHAIRMAN. How many different places do they sit?

Judge LEWIS. Four.

The CHAIRMAN. How far apart are the extremes?

Judge LEWIS. It is pretty hard for me to say offhand how far apart, but roughly speaking the distance from Globe to Prescott, Ariz., by the usually traveled route is about 500 miles; the distance from Phoenix to Tucson, if I remember correctly, is 120 miles; from Tucson to Globe would be about 230 miles, I would think; from Phoenix to Prescott is about 140 miles. You understand that there is no direct means of communication between Globe and Prescott. A person has to travel a roundabout way to get there by train.

The CHAIRMAN. What kind of cases are these that the prisoners have to stay in jail a year?

Judge LEWIS. I should say they are generally the type of cases where the accusation against them are such as violation of the Harrison antinarcotic law, and the Reed amendment, possibly violations of the Mann Act, cases of that character where the defendants are indigent and have no sufficient representation and in very many instances where there are Mexicans and Yaqui Indians who nobody concerns themselves particularly with. Yet, they are human beings. I don't want to criticize the district attorney's office, but I guess if there is any failing of the bar to which on the whole is subject to criticism, it is that of procrastination. A fellow gets rather hardened. He has a lot of cases to attend to and perhaps he doesn't concern himself with the fact that the men have been in jail for a long time. In fact, most of the States have passed laws which provide that if a case is not brought up for trial in a certain time, the State loses the right to prosecute, which has a tendency to force them up. The Congress perhaps ought to look into it.

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Mr. BOIES. What is the population of Arizona?

Judge LEWIS. I guess somewhere between 600,000 and 700,000. The figures of the draft gave it as 450,000. Whether that is correct is not for me to say except that it has never been accepted in Arizona as being anywhere near correct.

Mr. CHRISTOPHERSON. How long do these terms of court last?

Judge LEWIS. Normally the court keeps grinding all the time in Tucson that it is not engaged at other places. I should say to my personal knowledge that Judge Sautelle has not had a vacation of to exceed 10 days to 2 weeks at a time for the last 3 years. He is one of the most industrious and hardest workers I know of on the bench.

Mr. CHRISTOPHERSON. Does he ever adjourn the term before finishing the calendar?

Judge LEWIS. Yes; very frequently; and has been compelled to on a number of times call in outside judges, who have been called in from the outside to help him out.

Judge Rudkins, from Washington, came down there one time to help him out. He has tried numerous times to get other judges in, and I think Judge Bledsoe came over and sat for a while from the southern district of California, and then some man from an Illinois district came out there and held court for a while to try and help catch up.

The CHAIRMAN. We are very glad to have heard from you.

Mr. HAYDEN (resuming).

FURTHER STATEMENT OF HON. CARL HAYDEN, MEMBER OF CONGRESS FROM ARIZONA.

Mr. HAYDEN. Mr. Chairman, I shall be very brief, because Judge Lewis has thoroughly covered the case so far as the actual business before the Federal court in Arizona is concerned.

The population of Arizona has doubled in the past 10 years, and the State is the fifth in area in the Union, yet neither the number of people nor the size of the State are vital factors. The demand for an additional Federal judge for the district of Arizona is primarily based upon the volume of business pending before the United States court, which is so great that no single judge, however able, could possibly keep his work up to date, even with the assistance of such other Federal judges as are from time to time temporarily assigned to assist him. There have been occasions when two outside judges were holding court in Arizona in addition to our own judge, yet all three of them were unable to make any appreciable reduction in the number of cases awaiting trial.

In the last Congress this committee favorably reported to the House a bill providing for an additional Federal judge in Arizona. The bill was placed upon the calendar for unanimous consent, and a Member of Congress from Indiana objected to its consideration. When I afterwards inquired of him as to why he did so, the gentleman said that the State of Indiana, with a population of 3,000,000, had but one one Federal judge and he could see no possible reason why a three or four hundred thousand people in Arizona would require the services of two judges.

I then explained to him, as I want to make clear to the members of this committee, how different the actual conditions are in Arizona

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and in Indiana or any other of the States in the East where all the land has passed into private ownership. Seventy-five per cent of the area of Arizona is to-day under the control of the Federal Government. On July 1, 1919, there were 20,714,785 acres of vacant public land in my State. Congress has made it a crime to fence the public domain, and there are numerous other Federal statutes affecting it, which cause issues to arise that can only be determined in the Federal court.

Ten tribes of Indians, numbering over 44,500 souls, reside in Arizona, and 20,714,785 acres of land has been set aside for their benefit. As wards of the Government, the rights of these Indians must be protected by the Federal court.

Forest reserves to the extent of 12,076,689 acres have been created in Arizona. In keeping with the policy of conservation, trespassing upon a national forest has been made a crime triable before the Federal judge.

Under the reclamation law $19,248,199 had been expended up to June 30, 1919, in the construction of the Salt River and Yuma irrigation projects in Arizona; all of which was to be repaid by the water users. There is now pending before the Federal court a suit to determine whether the United States can collect several million dollars of this money.

But I have not recited all of the Federal activities in my State, which inevitably increase the business before the United States court. The Republic of Mexico bounds Arizona on the south, and a poorly guarded international line encourages smuggling and violation of the immigration laws. Such cases, together with persons charged with shipping arms and ammunition into Mexico in violation of the proclamation of the President, take up much of the time of the Federal court.

It goes without saying that the Federal court in Arizona has assumed its full share of the general increase in the number of cases arising under the food and drugs act, the antinarcotic law, the enforcement of prohibition, the amendments to interstate-commerce act, and numerous other laws recently enacted by Congress. The prompt and proper enforcement of these new laws is usually the reason advanced for the appointment of additional judges in other States, but I hope that I have convinced the members of this committee that the situation in Arizona is in a class by itself and that the need for relief is real and urgent.

To show that the docket is filled up with business which can not be attended to, let me read from a letter that I received from Judge Sawtelle, under date of August 20, 1919, in which he says:

> As you know, we have not been able to try civil cases in Arizona for more than a year, and now that the employers' liability law has been held to be constitutional, all of the personal injury cases, which have been pending in the district for the last few years, should be speedily determined. I am informed that some of the plaintiffs in those cases are wholly without means and are being supported by friends or labor organizations.
>
> The United States statutes require that I should give the criminal cases preference, and it has almost reached the point in this district where it is impossible for a litigant to obtain a speedy trial of his case. It almost amounts to a denial of justice.

The judge refers to the employers' liability law passed by the Arizona Legislature and recently sustained by the Supreme Court of the United States. Practically all of such cases go into the United

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States court, because many of the corporations who are employers of labor have obtained their charters from other States.

Let me again quote from another letter from the judge:

It would require the entire time of two judges to keep up with the business in the district. An additional judge would save the Government several times the amount of his salary.

Prisoners confined in jail, as well as litigants in civil cases, are demanding, and they are entitled to, a hearing. All of the other district judges, in the circuit, are busily engaged and I can secure help for only a few days at a time and then at considerable additional expense to the Government.

I shall be unable to finish the trial of criminal cases at Tucson in time to convene the court at Globe and Phoenix, and unless some relief is granted, the trial of civil cases and perhaps some of the criminal cases where the defendants are on bail will have to be deferred indefinitely.

Under existing conditions, the delay is almost equivalent to a denial of justice.

The latest available figures show that it costs over $135,000 a year to maintain the Federal Court in Arizona. The board of United States prisoners alone is over $13,000 a year, so that the salary of an additional judge could be more than saved by a reduction in number of meals for prisoners kept in jail awaiting trial. As a business proposition it can be domonstrated beyond doubt that it is economy to allow Arizona another judge.

We ask only for another judge, not for the establishment of two judicial districts. There will be no duplication of salaries of the marshal or the United States attorney. Their duties can be performed by deputies in different parts of the State as is now done. so that the net expense in connection with this legislation amounts to nothing more than the judge's salary, and that sum will be more than saved by the prompt trial of criminal cases.

I shall file the brief to which Judge Lewis referred, prepared by the Arizona Bar Association, and statements made by the clerk of the court which will give the committee an idea of the increasing business before the United States court in Arizona.

The CHAIRMAN. You will hand them to the stenographer?

Mr. HAYDEN. Yes, sir.

BRIEF IN SUPPORT OF ACT TO PROVIDE FOR ADDITIONAL DISTRICT JUDGE FOR STATE OF ARIZONA.

The undersigned, being practicing attorneys with a somewhat extensive knowledge of affairs in connection with the courts in Arizona, beg leave to recommend the passage of the bill now pending in the House of Representatives, which provides for an additional district judge in the State of Arizona. The passage of this bill is an urgent necessity.

There is at present one United States district judge in the State. Court is held at four places—Tucson, Globe, Phoenix, and Prescott—and while two terms a year for each of these places, which are hundreds of miles apart, are provided by the law creating this judicial district, it is noted from the letter of the United States attorney to the Attorney General, dated January, 1917, and to be found in the report of the Attorney General to the chairman of the Senate Judiciary Committee, that as early as 1916, court was in session either in regular or special term every month of that year, and we are advised that during the year 1917 three special, in addition to the eight regular, terms were held. In the current year, the month of February has been wholly taken up with a special term at Tucson, this term still continuing, and it will not be terminated until April 15. At the present time the regular March Prescott term is in session, Judge Rudkin of the eastern district of Washington presiding, said term having been postponed for two weeks in order to secure Judge Rudkin's services.

At its conclusion he will preside at the opening of the regular April Phoenix term, while Judge Sawtelle continues at Tucson in order to dispose, as far as possible, of the criminal calendar, to the end that the regular May term at Tucson may not be con-

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gested with old cases, and that some time may then be had for the civil calendar and the new criminal cases to be returned by the grand jury at said May term. The business of the court has rapidly increased, and although the present judge is one of exceptional ability and industry, he finds it impossible to properly transact all of the business. He devotes long hours to his duties, seldom if ever takes a vacation, holds court on legal holidays, and yet finds himself unable to keep up with the rapidly increasing work.

On June 30, 1917, there were 295 pending cases. In the eight and one-half months since that date 562 additional cases have been filed, and during that period 368 cases have been disposed of. There are now pending and undisposed of 489 cases.

It is difficult for one not personally familiar with the conditions in the State of Arizona to understand the situation with which the United States court is confronted.

Arizona for its entire width borders on the Republic of Mexico. A great number of actions, both civil and criminal, arises along this border growing out of the enforcement of the customs laws, the immigration laws, and laws relating to the importation of aliens for immoral purposes and similar statutes.

There are a large number of Indian reservations and one military reservation within the State. The usual litigation in connection with these matters finds its way into the United States court and requires much of the court's time in its disposal.

A large number of cases annually grow out of the enforcement of the white-slave traffic act, the Harrison narcotic law, and the laws relating to the shipment of intoxicants into the State. More than the usual amount of time is consumed in the trial of cases arising under the Harrison narcotic law for the reason that this traffic is usually carefully organized, and few charged with the violation of this law plead guilty.

There are transcontinental lines of railroads crossing the State. There seem to be peculiar opportunities for the robbery of interstate shipments of merchandise, and many criminal cases are brought in the United States court charging such offenses.

As is well known, Arizona is one of the leading mining States of the Union. There are many large corporations engaged in mining throughout the State, employing thousands of men in their business. These corporations are almost all organized under the laws of States other than Arizona. Consequently, litigation over mining properties and personal injury suits growing out of the operation of these properties all reach the Federal court for trial. One of the chief purposes of the corporations organizing in other States is to enable them to remove their litigated matters to the Federal court. Cases of this character usually are hotly contested and require a great deal of time for trial. Many cases involving huge sums have been tried in the Federal court of this State, and this class of business will undoubtedly increase in the future.

There are within the State of Arizona two large projects constructed under the reclamation act, one at Phoenix, the other at Yuma. Much litigation has arisen in connection with these projects, and there is now pending a case to which the United States is a party involving more than three millions of dollars.

There has been a great deal of litigation in the past, and undoubtedly there will be in the future, which involves the construction of the Constitution of the State of Arizona and of the constitutionality of a number of the statutes of the State. In these cases it is usually required that three judges hear the application for interlocutory injunction. There is no circuit judge resident within the State, and it has uniformly been necessary to have the hearings on these applications either at Los Angeles or San Francisco, Calif. This necessitates the district judge of Arizona traveling to California to sit with the circuit judge, and consumes a great deal of time.

We have detailed at some length the character of the litigation in this State, with the view of advising the committee of its importance not only to the people of the State but to the Government of the United States. Congress has seen fit of recent years to extend its legislation to cover many subjects heretofore dealt with by the States or not dealt with at all. Naturally additional legislation increases the work of the courts, and it is unreasonable to believe that the best interest of the Government can be served in enforcing this important legislation without providing sufficient courts to deal with the important cases arising under it.

It is of the utmost importance to litigants in the State of Arizona that another judge be provided for. The committee is familiar with the evils which flow from delay in hearing cases presented to the courts. The people of the State are entitled to adequate facilities for the transaction of their legal business. If the committee examines the question from the standpoint of dollars and cents, it must be apparent that money will be saved by the prompt trial of cases to which the United States is a party. It is the experience of everyone familiar with courts that where the calendars are congested much money necessarily is wasted by bringing witnesses in cases which can not be

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reached and which must be continued and the witnesses again brought for the trial. This is particularly true in this country where the district is so large and witnesses are brought from long distances.

We append hereto a statement prepared by the clerk of the court showing in detail the character of cases now pending in the court.

We respectfully submit that it is humanly impossible for one judge to transact all of the business of the district, and that from the standpoint of economy and from the standpoint of efficiency the bill now pending should promptly be passed.

JOSEPH H. KIBBEY,
President of the Arizona Bar Association.
EDWIN F. JONES.
JOHN H. CAMPBELL.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ARIZONA.

UNITED STATES OF AMERICA,
District of Arizona, ss:

I, Mose Drachman, clerk of the United States district court for the district of Arizona, do hereby certify that, from the data received from my deputies, it appears there was pending at the close of June 30, 1917, in the United States district court for the district of Arizona, 295 cases divided as follows:

	Prescott and Phoenix.	Globe.	Tucson.	Total.
Law	16	8	26	50
Equity	14	16	28	58
Bankruptcy	32	10	9	96
Naturalization petitions	21	.....	19	51
Criminal, including cases awaiting action of grand jury	12	9	75	40
Total	.....	.....	.....	295

That since the above-named date 562 cases have been filed in said district, as follows:

	Prescott and Phœnix.	Globe.	Tucson.	Total.
Law	37	17	23	60
Equity	7	1	2	10
Bankruptcy	16	6	6	28
Naturalization petitions	10	.....	13	23
Criminal, including cases awaiting action of grand jury	168	17	256	441
Total	.....	.....	.....	562

That since above date 368 cases have been disposed of as follows:

	Prescott and Phœnix.	Globe.	Tucson.	Total.
Law	15	11	13	39
Equity	5	3	6	14
Bankruptcy	11	.....	2	13
Naturalization petitions	.....	.....	9	9
Criminal, including cases awaiting action of grand jury	100	9	184	293
Total	.....	.....	.....	368

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That there were pending and undisposed of on March 14, 1918, 489 cases, as follows:

	Prescott and Phœnix.	Globe.	Tucson.	Total.
Law	38	3	30	71
Equity	16	14	24	54
Bankruptcy	37	16	13	66
Naturalization petitions	31	.....	23	54
Criminal, including cases awaiting action of grand jury	80	17	147	244
Total	.....	.....	.....	489

Making a total of 489 cases pending on said 14th day of March, A. D. 1918.

Witness my hand and seal of said district court affixed hereto at Tucson, Ariz., this 18th day of March, A. D. 1918.

MOSE DRACHMAN, *Clerk.*
By EFFIE D. BOTTS, *Chief Deputy Clerk.*

Clerk's statement of cases filed, disposed of, and pending for the United States district court for the district of Arizona, covering period from Mar. 14, 1918, to and including Nov. 26, 1918.

Cases pending close of Mar. 14, 1918:	
Law	71
Equity	61
Criminal	244
Bankruptcy	66
Naturalization	54
Total	496
Cases filed since Mar. 14, 1918:	
Law	104
Equity	32
Criminal	409
Bankrputcy	13
Naturalization	30
Total	588
Cases disposed of since Mar. 14, 1918:	
Law	56
Equity	39
Criminal	375
Bankruptcy	27
Naturalization	43
Total	540
Cases pending close Nov. 26, 1918:	
Law	109
Equity	54
Criminal	358
Bankruptcy	47
Naturalization	41
Total	609

Also 465 soldiers naturalized at Douglas on June 17 and 18, 1918.

UNITED STATES OF AMERICA,
District of Arizona, ss:

I, Mose Drachman, clerk of the United States district court for the district of Arizona, do hereby certify the above to be a true and correct statement of cases pending, filed, and disposed of in said court on and since March 14, 1918, to and including November 26, 1918, and of the cases pending at close of November 26, 1918, as appears from the records of the clerk's office of said court.

Witness my hand and seal of said court this 30th day of November, A. D. 1918.

[SEAL.] MOSE DRACHMAN,
Clerk.
By EFFIE D. BETTS,
Chief Deputy Clerk.

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Clerk's statement of cases filed, disposed of, and pending in the United States District Court for the District of Arizona covering period from Jan. 1, 1919, to Dec. 31, 1919.

Cases pending close Dec. 31, 1918:	
Law	122
Equity	54
Criminal	306
Bankruptcy	37
Naturalization	61
Total	580
Cases filed since Dec. 31, 1919:	
Law	99
Equity	28
Criminal	611
Bankruptcy	15
Naturalization	56
Total	809
Cases disposed of since Dec. 31, 1919:	
Law	98
Equity	16
Criminal	588
Bankruptcy	14
Naturalization	66
Total	782
Cases pending close Dec. 31, 1919:	
Law	123
Equity	66
Criminal	329
Bankruptcy	38
Naturalization	51
Total	607

I, C. R. McFall, clerk of the district court of the United States for the district of Arizona, do hereby certify that the above and foregoing is a true and correct statement of the number of cases pending in said district on December 31, 1918, and December 31, 1919, and of the number of cases filed and disposed of in said district between January 1, 1919, and December 31, 1919, as the same appears from the records of my office.

Witness my hand and the seal of said court, affixed this 3d day of January, 1920.

[SEAL.] C. R. McFALL, *Clerk.*

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 18, 1920.

The subcommittee met at 10 o'clock a. m., Hon. Joseph Walsh presiding.

Mr. WALSH. The first bill which we will consider this morning is S. 1358. Mr. Raker, you desire to be heard?

Mr. RAKER. I do.

STATEMENT OF HON. JOHN E. RAKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. RAKER. Mr. Chairman, as an opening I want to make this short statement: At the close of business on June 30, 1919, the condition of the calendar of the District Court for the Northern District of California, cases pending, stood as follows:

1. Civil cases to which the United States was a party	108
2. Criminal prosecutions to which the United States was a party	613
3. Suits to which the United States was not a party	3,132
4. Bankruptcy cases	1,105
	4,958
5. Cases pending on June 30, 1919, in which no action has been taken within the last five years	1,197
Grand total	6,155

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At this time I want to especially direct the committee's attention to the fact that there were 1,197 cases pending on June 30, 1919, in which no action has been taken within five years. This is practically a denial of justice.

I think it would be well to let the bill appear in the record. It is very short, and in that connection, with other data I have, I would like to call the attention of the subcommittee and the committee to the letter from Hon. John W. Preston, of date June 18, 1918, on this subject It may go into the record. This is included in the report on both bills. We will show that conditions are growing more urgent for an additional judge.

Mr. WALSH. Certainly.

Mr. RAKER. Also the letter of June 30, 1918, by T. W. Gregory. Attorney General, included in report.

(The bill and letters and reports referred to are as follows:)

EXHIBIT 1.

[S. 1358, Sixty-sixth Congress, first session.]

AN ACT Providing for an additional judge for the northern district of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, by and with the advice and consent of the Senate, an additional judge for the northern district of California, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same salary now prescribed by law in respect of the present district judges therein.

Passed the Senate June 30 (calendar day, July 1), 1919.

Attest: GEORGE A. SANDERSON,
Secretary.
By H. M. ROSE,
Assistant Secretary.

EXHIBIT 2.

[Senate report No. 58, Sixty-sixth Congress, first session.]

The Committee on the Judiciary, having had under consideration the bill (S. 1358) providing for an additional judge for the northern district of California, report the same back to the Senate with the recommendation that the bill do pass.

In reply to an inquiry made by the chairman of the committee, the Attorney General states that from the information before him it would seem that the services of another judge are needed in this district.

Judge Van Fleet, of this district, came before the subcommittee having this matter under investigation and strongly urged the necessity of this legislation, as did also several Members of Congress from the State of California.

The Attorney General transmitted to the committee a letter from the district attorney of the district, addressed to the committee, which gives detailed information as to the condition existing in the district. This letter is set out below:

JUNE 18, 1918.

To the honorable COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE NO. 3.
House of Representatives, Washington, D. C.

GENTLEMEN: The condition of the calendar in the district court, northern district of California, impels me in the interest of efficiency in Government work to appeal to Congress through you for the passage of Senate bill No. 2910, designed to create an additional judgeship in this district.

This district comprises the northern and larger division of the State, including San Francisco, the other bay cities, and the capital, Sacramento.

Two district judges only are in the district at present, the last judgeship having been created in 1907.

The calendar of Government cases contains no dead matter whatever, as some time prior to April 6, 1917, it had been absolutely cleared of such material.

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The calendar of Government cases contains nothing except cases at issue contested and awaiting trial. Pleas of guilty in criminal cases so far as is known at this writing are all in and no others are expected to pending indictments.

From June 30, 1917, to June 1, 1918 (11 months), we have disposed of 782 Government cases, 530 by pleas of guilty and 152 by trial. Criminal cases contested and awaiting trial are 476; civil cases, 42.

Criminal cases are coming in at the average rate of 97 per month and have been coming in at this rate during all this fiscal year.

Of the criminal cases awaiting trial 182 are being prosecuted under war statutes and 294 are under the ordinary peace-time statutes. The above are pure Government civil and criminal cases and have no reference to bankruptcy, naturalization, or other quasi Government cases.

Litigation in which Government is not a party is approximately estimated at 3,650 cases, all of which are supposed to be alive, and there is included in this number bankruptcy, naturalization, and admiralty cases which consume, as a rule, very little time. I must insist that at least half this number of matters which will consume the ordinary time are devoted to the trial of cases.

I estimate that the new statutes about to be put in operation and others that may follow, that there will easily be added 25 to 50 cases per month which will make approximately 125 to 150 new cases per month.

It would take, and does take, almost half the time of one judge in taking pleas of defendants and hearing dilatory motions on their behalf. During the present fiscal year judges from other districts have sat more than 250 court days. Frequently we have had two judges at one time in attendance from other districts.

The district is divided into divisions and two grand juries are in existence. The one at Sacramento has weekly sessions and the one at San Francisco has regular biweekly sessions.

The presence of a judge in the Sacramento division is often demanded at a time when he is most needed in San Francisco, and thus delay and lost motion continually occurs at the expense of dispatch and efficiency in the work.

The war work in Government cases and peace-time work in point of numbers compare about equally.

Peace-time work alone could not be handled by two judges, and we had much cause to complain before our entry into the war.

But conceding that war work alone is causing emergency at present, it will take years after the war to finish cases on hand and much permanent work will be left for the courts, and meantime other cases will no doubt greatly increase, so that from any standpoint the new judgeship is an urgent necessity.

Another significant point is that mere numbers is not a true picture of the situation in this district. The size and character of the cases and their importance adds still more to the necessity for judgeship help. One judge alone spent from September 1, 1917, to May 1, 1918, in the trial of criminal cases and was able to dispose of but three cases. There are four cases already on calendar, large conspiracy cases, which alone will in the aggregate consume one year at least in their trial. San Francisco is the gateway of the Far East, and disloyalty exists in a remarkable degree, and the destruction of property and other serious German plotting may be expected at any time. Many convicted defendants of a dangerous character are now at large in the district.

I can conceive of no greater comfort to these enemies than to have them able to clog our calendar and postpone their trial to indefinite dates and then after conviction to remain at large to do us injury.

In my judgment, an urgent necessity exists for the creation of this judgeship, and in conclusion will add that this movement has the strongest indorsement of all the members of the circuit court of appeals of the ninth circuit and of the local district judges, the bar generally, and all departments of the Government interested in the dispatch of their work.

There is not and can not be a legitimate objection of any kind to the passage of this bill by any element in the district.

Respectfully submitted.

JNO. W. PRESTON,
United States Attorney, District of California.

The following letter is appended hereto and made a part of this report:

JUNE 30, 1918.

Hon. E. Y. WEBB,
House of Representatives, Washington, D. C.

MY DEAR MR. WEBB: I am in receipt of your favor of the 17th instant, inclosing a copy of S. 2910, and asking for comment and a report on the facts bearing upon the necessity of an additional judge in the northern district of California. An examination

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of the business of the northern district of California from 1913 to 1917 does not disclose any material increases. The yearly statements, during these years, of the business in that district are hereto attached. However, there has been an unusually large increase during the present fiscal year, arising from war legislation.

This is a very large district, with an exceptionally large amount of business to be handled, not only as to volume but in the character of its importance. The district is practically the New York of the Pacific coast. For some time it has been customary to assign judges from other portions of the ninth circuit quite frequently to assist in disposing of work on the calendar, and it appears that during the present fiscal year judges from other districts have served more than 250 court days, or practically a year's work for the same term. The district attorney, Mr. Preston, is entirely conversant with the work in that district, and there is hereby attached a copy of a letter which he states was laid by him before your committee.

While it has been my custom not to make recommendations on bills of this character, but simply to present such information as can be gathered from the records and other sources of information in the department, yet in view of the fact that your letter asked for comment from me on this bill, I feel that I am justified in so far departing from this rule as to say that, from the information before me, it would seem that the services of another judge are needed in that district.

I might add that aside from war conditions, our developing trade in the East and in Australia and South American countries is of necessity very much increasing the work in this district, and will in all probability continue to do so.

Respectfully,

T. W. GREGORY, *Attorney General.*

EXHIBIT 3.

[S. 2910, Sixty-fifth Congress, second session.]

AN ACT Providing for an additional judge for the northern district of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, by and with the advice and consent of the Senate, an additional judge for the northern district of California, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same salary now prescribed by law in respect of the present district judges therein.

Passed the Senate May 21, 1918.

Attest: JAMES M. BAKER,
Secretary.

EHXIBIT 4.

[Senate Repoat No. 289, Sixty-fifth Congress, second session.]

The Committee on the Judiciary, to whom was referred the bill (S. 2910) providing for an additional judge for the northern district of California, having considered the same, reports it back, with amendments and recommends that it be so amended and passed.

The amendments are (1) to strike out section 2 and (2) to strike out section 3, since they would be only a reenactment of existing law.

On August 29, 1917, William W. Morrow, William H. Hunt, William B. Gilbert, and Erskine M. Ross, United States circuit judges for the ninth judicial circuit; William C. Van Fleet, United States district judge for the northern district of California; and John W. Preston, United States attorney for the northern district of California, wrote to the senior Senator from California (Mr. Phelan) a letter, the text of which is as follows:

"We respectfully ask your earnest consideration of this situation with respect to the United States district courts in northern California.

"Judge Dooling has been in the hospital since his accident several weeks ago, and physicians say that he will be unable to hold court for some months to come. He is suffering from fracture of the thigh, a broken wrist, and a broken nose.

"This leaves for duty one district judge in the northern district of California, which includes San Francisco and all north thereof. The volume of business in this district has been steadily increasing for several years, and with heavy additions to calendars because of matters arising out of war conditions it has become utterly impossible for

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even two judges to transact the business with proper expedition. The grand jury is in session nearly every day, with the result that the criminal business alone is sufficient to require services of two judges. As an example, it can be said that the so-called 'Hindoo conspiracy indictments' against over 100 persons will require probably 10 to 12 weeks for trial, and several hundred other indictments should have attention, not to mention admiralty, bankruptcy, naturalization, and other matters. The circuit judges are continuously employed in hearing and considering appeals before the circuit court of appeals, where the volume of business has also steadily grown and demands their entire attention. They have been assisting, however, in keeping the district court open, and making necessary orders in bankruptcy, receiving pleas, and issuing and deciding writs of habeas corpus, etc., but they can not go on with the regular calendars without serious interruption in their own work. The several district judges throughout the circuit are working to their full capacities and can not lend needed aid here without detriment to public business in their several districts.

"While we believe that permanent legislation for another judge in this district is much needed, we feel that circumstances call for relief for the present exigency by providing for appointment of an additional judge for the northern district of California, with provisions, if thought best, that in case of a vacancy in the office of district judge there shall thereafter be but two district judges in the district. An additional judge in this district could also be available for such business as may require attention at Sacramento and Eureka.

"If you desire detailed evidence in support of the statements with reference to the increase of business in this district, we will have the clerks of the court prepare appropriate documents.

"We are mailing a litter similar to this to Senator Johnson."

To supplement the comprehensive statement just set out, there is now quoted a part of the letter written to the senior Senator from California by Hon. John W. Preston, United States attorney for the northern district of California, on January 12, 1918:

"I might add that since June 30, 1917, the work in this district has vastly increased, and in my opinion increased out of all proportion, when compared with any other district in the United States, unless it be Chicago and New York. In other words, since June 30, 1917, there have been filed 611 criminal cases in this district, many of which are still pending. Civil and admiralty cases pending can not be reached at all by the courts, on account of the congested condition of the calendar.

"Judge Dooling is now back at work, and we have also had a judge from Los Angeles here assisting us during the past month, yet with the three of them working we can make but little impression upon the calendar."

EXHIBIT 5.

[House Report No. 1036, Sixty-fifth Congress, third session.]

The Committee on the Judiciary, having had under consideration the bill (S. 2910) providing for an additional judge for the northern district of California, report the same back to the House with the recommendation that the bill do pass.

In reply to an inquiry made by the chairman of the committee, the Attorney General states that from the information before him it would seem that the services of another judge are needed in this district.

Judge Van Fleet of this district came before the subcommittee having this matter under investigation and strongly urged the necessity of this legislation, as did also several Members of Congress from the State of California.

The Attorney General transmitted to the committee a letter from the district attorney from the district, addressed to the committee, which gives detailed information as to the condition existing in the district. This letter is set out below:

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House of Representatives, Washington, D. C.

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Two district judges only are in the district at present, the last judgeship having been created in 1907.

The calendar of Government cases contains no dead matter whatever, as some time prior to April 6, 1917, it had been absolutely cleared of such material.

The calendar of Government cases contains nothing except cases at issue contested and awaiting trial. Pleas of guilty in criminal cases so far as is known at this writing are all in and no others are expected to pending indictments.

From June 30, 1917, to June 1, 1918 (11 months). we have disposed of 782 Government cases, 530 by pleas of guilty and 152 by trial. Criminal cases contested and awaiting trial are 476; civil cases, 42.

Criminal cases are coming in at the average rate of 97 per month and have been coming in at this rate during all this fiscal year.

Of the criminal cases awaiting trial 182 are being prosecuted under war statutes and 294 are under the ordinary peace-time statutes. The above are pure Government civil and criminal cases and have no reference to bankruptcy, naturalization, or other quasi Government cases.

Litigation in which Government is not a party is approximately estimated at 3,650 cases, all of which are supposed to be alive, and there is included in this number bankruptcy, naturalization, and admiralty cases which consume, as a rule, very little time. I must insist that at least half this number of matters which will consume the ordinary time are devoted to the trial of cases.

I estimate that the new statutes about to be put in operation and others that may follow, that there will easily be added 25 to 50 cases per month which will make approximately 125 to 150 new cases per month.

It would take, and does take, almost half the time of one judge in taking pleas of defendants and hearing dilatory motions on their behalf. During the present fiscal year judges from other districts have sat more than 250 court days. Frequently we have had two judges at one time in attendance from other districts.

The district is divided into divisions and two grand juries are in existence. The one at Sacramento has weekly sessions and the one at San Francisco has regular biweekly sessions.

The presence of a judge in the Sacramento division is often demanded at a time when he is most needed in San Francisco, and thus delay and lost motion continually occurs at the expense of dispatch and efficiency in the work.

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Peace-time work alone could not be handled by two judges, and we had much cause to complain before our entry into the war.

But conceding that war work alone is causing emergency at present, it will take years after the war to finish cases on hand and much permanent work will be left for the courts, and meantime other cases will no doubt greatly increase, so that from any standpoint the new judgeship is an urgent necessity.

Another significant point is that mere numbers is not a true picture of the situation in this district. The size and character of the cases and their importance adds still more to the necessity for judgeship help. One judge alone spent from September 1, 1917, to May 1, 1918, in the trial of criminal cases and was able to dispose of but three cases. There are four cases already on calendar, large conspiracy cases, which alone will in the aggregate consume one year at least in their trial. San Francisco is the gateway of the Far East, and disloyalty exists in a remarkable degree, and the destruction of property and other serious German plotting may be expected at any time. Many convicted defendants of a dangerous character are now at large in the district.

I can conceive of no greater comfort to these enemies than to have them able to clog our calendar and postpone their trial to indefinite dates and then after conviction to remain at large to do us injury.

In my judgement an urgent necessity exists for the creation of this judgeship, and in conclusion will add that this movement has the strongest indorsement of all the members of the circuit court of appeals of the ninth circuit and of the local district judges, the bar generally, and all departments of the Government interested in the dispatch of their work.

There is not an can not be a legitimate objection of any kind to the passage of this bill by any element in the district.

Respectfully submitted.

JNO. W. PRESTON,
United States Attorney, District of California.

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S. 2910, Sixty-fifth Congress, was reported to the Senate on February 26, 1918, by Senator Shields, and passed the Senate on May 21, 1918. It was heard by the Judiciary Committee of the House and reported out favorable on February 5, 1919. Did not pass the House by reason of congestion of business. S. 2910, of the Sixty-fifth Congress, is the same as S. 1358, Sixty-sixth Congress, which passed the Senate on June 30 (calendar day, July 1), 1919.

Senator Phelan wrote me on July 23, 1919, as follows:

UNITED STATES SENATE,
Washington, D. C., July 23, 1919.

Hon. JOHN E. RAKER,
House of Representatives, Washington, D. C.

DEAR JUDGE RAKER: I beg to send you a letter, dated July 12, which I have received from Mrs. Annette Abbott Adams, United States attorney at San Francisco, giving me the status of the docket in the United States courts, and the cases which are pending for action there.

It is, as you will see, really necessary that an additional judge be appointed at once. All the United States judges there, as you know, strongly urge it, and the Department of Justice has recommended it very strongly.

I send you also for your information a page from the Congressional Record of July 1, from which you will see that Senators Overman and Nelson both strongly recommend it. The bill, as you know, recently passed the Senate unanimously.

Please see that your House committee acts.

Yours, very truly,

JAMES D. PHELAN.

With that letter the Senator inclosed a copy of the report from the then and present district attorney and, with the permission of the chairman, I would like to insert it in the record. It shows the status of the cases at that time and the number of cases, which I will comment on in a few moments.

(The copy of report referred to is as follows:)

DEPARTMENT OF JUSTICE,
UNITED STATES ATTORNEY FOR NORTHERN DISTRICT OF CALIFORNIA,
San Francisco, July 12, 1919.

Hon. JAMES D. PHELAN,
United States Senator, Washington, D. C.

MY DEAR MR. PHELAN: Your telegram of July 1 asking that I write you present reasons for the appointment of an additional Federal judge in this district was duly received, and I have had prepared certain data which I think will persuade any doubting person that this district very much needs an additional judge.

There are now pending in this district the following cases to which the United States is a party:

	Cases.
Criminal	586
Civil	52
Habeas corpus	30
Total	668

In addition to the above there were pending on July 1 approximately 3,000 civil cases, not including bankruptcy matters.

During the fiscal year ending June 30, 1919, there were filed 324 bankruptcy cases, and during the same period 743 civilian petitions for naturalization were filed, in addition to about 2,000 soldier applications.

During the year we disposed of approximately 747 criminal cases and there were filed about 941 new criminal cases, an average of about 80 cases per month. In addition to this, about 370 civil cases have been disposed of by the courts during the same period.

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Civil cases commenced during the said period in the second division are as follows.

	Cases.
Equity	59
Law	79
Seamen	405
Total	543

Of these cases the United States is a party to 14.

In the first division the admiralty docket shows 230 new cases, including about 27 habeas corpus matters. Of these cases the United States is a party to 70.

These statistics are remarkable when it is considered that strictly war work has materially decreased since the signing of the armistice in November.

During the past fiscal year outside judges have sat in this district approximately 276 days.

As a matter of comparison, your attention is called to the amount of business which was conducted during the fiscal year ending July 1, 1907, the year that the second district judge was appointed in the district. The Attorney General's report for that year shows that on July 1 of that year there were pending in the district but 144 criminal cases; 152 civil cases; that during that year but 72 criminal cases were commenced and but 83 civil cases; and that during the same period but 56 criminal cases were disposed of and but 48 civil cases.

Surely, if the showing made at that time justified an additional judge, the showing made now is conclusive as to whether present necessities require an additional judge.

It is apparent that the enforcement of the war-time prohibition act will materially increase the work of our courts during the coming year.

I am personally very grateful to you for the interest which you are taking in the matter of securing us an additional judge. I am sorry that I have been delayed in sending you this data, but my clerk had not completed making up the reports for the fiscal year at the time your request was made, and it was necessary for him to prepare the data specially.

Respectfully,

ANNETTE ABBOTT ADAMS,
United States Attorney.

Also, in this connection, I wish to read into the record a letter from Judge William C. Van Fleet, one of the judges. It is dated Sacramento, Calif., October 14, 1919. He says, after referring to other matters which I do not care to have go into the record:

Is there anything new in the situation with reference to the bill for an additional judge in this district? We are in a very serious situation. Judge Dooling, as I wrote you, has been incapacitated and absent on account of illness since last April. About three weeks ago, feeling somewhat better, he returned and attempted to take up his work, but it gave him a setback and, after going to the hospital for another examination, he has been ordered by his physicians to refrain from any work for an indefinite period. The result is and has been, since his illness, to greatly cripple us, even to the extent that we are able to dispose of the business with both in health.

There is, as I have stated to you, normally more work in the district than three men can readily do, but with Judge Dooling unable to sit we have to depend entirely on outside help to do the work in his division, aside from my now and then taking a case of urgent necessity.

I am in Sacramento hearing the October term and have cases set here running throughout this month and into November, and of course while I am here there is no district judge in San Francisco.

That is the really deplorable situation they are in.

Judge Gilbert is making an effort to get a judge from some other district to help us out, but he has not yet succeeded. The situation calls strongly for help and I have been anxiously hoping that the bill giving us another judge might go through. Can you not facilitate it?

With sincere regards,

WILLIAM C. VAN FLEET.

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The committee will remember Judge Van Fleet who used to be one of our supreme court judges and is one of the able men of the West in handling cases and expediting business. Here is another letter from Judge Van Fleet of date July 31, 1919:

MY DEAR JUDGE RAKER: I received yours of the 23d instant relating to bill for an additional judge in this district in due course and immediately referred the request for data to Mrs. Adams, the United States attorney, whose office keeps statistics of the business passing through the courts, and asked that I be furnished full details of existing conditions. I have received a response, of which the inclosed is a copy, and which I think will furnish you with the facts you desire.

You will observe that while the so-called "war statutes" distinctly accentuated the volume of work (mostly criminal) coming before the courts in the past two years, entirely independently of that extraordinary work, now largely diminished, there is yet more work than normally coming before the courts in this district than three active men could conveniently handle, and that the necessity for the aid sought by this bill is strongly existent and the volume of work normally coming in is bound to increase rather than diminish.

At present the necessity for help is accentuated through the unfortunate incapacity of my associate, Judge Dooling, who has been ill and unable to sit since early in the year and is not expected to be on the bench again for some time. While the judges from other districts have been here a considerable part of the time, I am now alone and have to handle both divisions as best I can, because of inability to get help.

I therefore bespeak your very earnest efforts to get the bill through the House at as early a date as possible. The necessity for help is in this end of the district, where the large volume of work arises.

Now, this goes on to another matter, and I specially call the committee's attention to it:

Even should Mr. Curry's bill carving out a new district go through the territory embraced in his proposed bill does not furnish but a very small portion of the work coming into our courts; in fact, according to the statistics of the clerk's and the district attorney's offices, it is doubtful if that territory would furnish enough work to keep a judge busy more than half the time; so that you will see whether Mr. Curry's bill should become a law or not, what we need is an additional judge whose services can be required at San Francisco.

With sincere regards,

Yours, very truly,

WILLIAM C. VAN FLEET.

Mr. WALSH. Who is Judge Dooling?

Mr. RAKER. Judge Dooling is the other United States district judge.

Mr. WALSH. In the southern district?

Mr. RAKER. No; in the northern district. We have two United States district judges in the northern district of California, and Judge Dooling throughout last year, to a greater or lesser extent, has been incapacitated, as is shown by the letters of Judge Van Fleet.

Mr. WALSH. How long has he been sitting?

Mr. RAKER. Been on the bench?

Mr. WALSH. Yes.

Mr. RAKER. He has been on the bench about seven years.

Mr. WALSH. How old a man is he?

Mr. RAKER. He is about 60.

Mr. WALSH. Can you tell us the territory?

Mr. RAKER. I will, but I want to get a few of these matters in, and then I will come to that. Here is a letter from Mrs. Adams, the present United States district attorney, of date November 1, 1919, which goes to the same effect as Judge Van Fleet's, and without reading it I would like to have it go in the record.

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(The letter referred to is as follows:)

DEPARTMENT OF JUSTICE,
UNITED STATES ATTORNEY FOR NORTHERN DISTRICT OF CALIFORNIA,
San Francisco, November 1, 1919.

Hon. JOHN E. RAKER, M. C.,
Washington, D. C.

MY DEAR JUDGE RAKER: Your letter of October 22, in which you state that the committee having under consideration the bill to create an additional judge for the northern district of California, is holding hearings this week and that you hope to make a sufficient showing to the committee to insure early and favorable report of this bill to the House, is received.

I most sincerely hope that you will succeed, for I assure you that we certainly need an additional judge. Judge Dooling, who handles the criminal calendar, has been away on account of illness during most of the time since March 1. He left about that time and did not return at all until the early part of September. He has now been gone about a month and will be absent for an indefinite period as his health is precarious. The enforcement of the war-time prohibition law is bringing to us hundreds of cases for prosecution, to say nothing of the usual routine work of the courts, and you can readily judge from the amount of work on hand last year, what the courts will be called upon to do this year with the enforcement of the prohibition legislation.

You have received from Mr. Maling, recent reports showing the amount of business transacted in this district during the last fiscal year. I feel that if Congress fully recognized the necessity existing here, it would not hesitate for a moment to provide an additional judge, regardless of the political aspects of the situation. I shall be indeed grateful to you if you succeed in relieving our distress by getting this bill through the House.

Most sincerely, yours,

ANNETTE ABBOTT ADAMS,
By HELEN C. TANIHER,
United States Attorney.

Here is another letter from J. B. Holohan, United States marshal, and I put this in the record because Mr. Holohan is a man of extraordinary ability, knowledge, and capacity, and observes what is going on in the courts. It is dated August 5, 1919. He says:

MY DEAR CONGRESSMAN: I have before me your letter of July 23, concerning the legislation now pending before Congress, having the object of an appointment of an additional judge for this district. In answer to your communication, I desire first of all to say that I have no hesitancy whatever in stating that the district needs an additional judge and needs one badly. From my personal experience covering a period of more than five years while I have been United States marshal of this district I am convinced that an additional judge is imperatively necessary. The work and business of the district has increased, I should say, at least 40 per cent, consisting of the arrest of a large number of defendants, the service of a great many writs of a civil nature, which is constantly increasing; the forming of a division of the court with headquarters at Sacramento has increased the amount of business to a very great degree, which results in the convening of two juries, grand and trial, which are in constant attendance before that division whenever their services are required.

I want especially to call attention to that and then I will have the evidence covering that a little later.

A further reason that an additional judge here is necessary, is that for the last three or four years, judges from outside districts have been in attendance upon the courts here at various times. The judges have come from Spokane, Tacoma, Seattle, Carson City, Arizona, and Idaho; this was necessary for the purpose of assisting Judges Dooling and Van Fleet in the discharge of their official business which is constantly arising in the district.

If there is any further information that you desire to have on the subject, it will be a pleasure to give you the same.

Yours, respectfully,

J. B. HOLOHAN,
United States Marshal.

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There is a district court at Sacramento and they keep a grand jury in session there practically all the time. In addition to that, they go to Eureka to hold a term of court twice a year.

Then I have here a copy of a telegram which was sent some time ago, addressed to Mr. Kahn and all of us, which I think is very appropriate, from the Bar Association of San Francisco, unanimously indorsing and urging the passage of this legislation because of the necessity for it. I will let it go in the record.

(The telegram referred to is as follows:)

Hon. JULIUS KAHN
(Attention Messrs. Church, Curry, Elston, Hayes, Kahn, Kettner, Lea, Nolan, Osborne, Raker, Randall, Members of House of Representatives).

Washington, D. C.

Bar Association of San Francisco has adopted the following resolution:

Whereas the congested calendars of the several divisions of the United States district court of the northern district of California, the opinions of the resident and visiting judges acting therein and that of the lawyers and litigants having business in the Federal courts of said district attest the absolute necessity for the appointment of an additional Federal judge for the northern district of California,

Resolved, That the Bar Association of San Francisco respectfully urges members of the House of Representatives from California to use all possible efforts to secure the passage by said House during the present session of Senate bill 2910 (Calendar No. 265) providing for an additional judge for the northern district of California, heretofore passed by the Senate and recommended for passage by the Judiciary Committee of the House. Be it further

Resolved, That the president of said association communicate by telegraph the above resolution to the California Representatives in the present House.

Adopted February 5, 1919.

JEREMIAH T. SULLIVAN, *President*.

Then I have here three tabulated statements and I think they bear very strongly on this question and I want to read the first one, dated August 22, 1919:

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
OFFICE OF THE CLERK,
San Francisco, August 22, 1919.

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.

MY DEAR SIR: Answering your recent letter, I have gone over the dockets in this office to ascertain the business during the fiscal year ended June 30, 1919, with the following results:

Civil cases in which the United States is a party:	
Number commenced under—	
Customs laws	25
Internal-revenue laws	2
Land and timber laws	2
Food and drug laws	61
Immigration laws	6
Miscellaneous laws	22
Total	118
Number terminated	56
Number pending June 30, 1919	108
Criminal cases:	
Number commenced under—	
Customs laws	45
Internal-revenue laws	25
Post-office laws	44
Banking acts	6
Land laws	5

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Criminal cases—Continued.	
Number commenced under—Continued.	
Peonage laws	10
Food and drug laws	4
Interstate-commerce laws	15
Counterfeiting laws	4
Espionage laws	52
War act—Liquor and prostitutes	632
Miscellaneous laws	137
Total	979
Number terminated	829
Number pending	613
Bankruptcy cases:	
Number commenced	437
Number terminated	485
Number pending	1,105
Admiralty cases:	
Number commenced	104
Number terminated	100
Number pending	582
Estates of deceased and deserting seamen:	
Number commenced	405
Number terminated	315
Number pending	1,525
Other suits:	
Number commenced	144
Number terminated	517
Number pending	1,025
Outside judges transacted business in this court:	Days.
Hon. William M. Morrow, circuit judge	39
Hon William H. Hunt, circuit judge	34
Hon. Frank H. Rudkin, district judge	86
Hon. Frank S. Dietrich, district judge	19
Hon. E. S. Farrington, district judge	16
Hon. Geo. M. Bourquin, district judge	21
Hon. E. E. Cushman, district judge	18
Hon Jeremiah Neterer, district judge	16
Hon. Oscar A. Trippet, district judge	4
Hon. William H. Sawtelle, district judge	1
Total	254

Trusting that this data is what you desire and if I can be of further service to you that you will command me, I remain,

Yours respectfully,

WALTER B. MALING, *Clerk.*

I want particularly to call your attention to this statement:

Mr. ELSTON. Will you give the residence of some of those district judges? They come from all the adjoining States?

Mr. RAKER. Judge Rudkin is from the State of Washington; Judge Dietrich is from Idaho; Judge Farrington is from Nevada; Judge Bourquin is from Montana; Judge Cushman is from the State of Washington; Judge Neterer is from the State of Washington; Judge Trippet is from Los Angeles, and Judge Sawtelle is from Arizona. Judge Morrow, circuit judge, California; Judge Hunt, circuit judge, California; Judge Bledsoe, Los Angeles; Judge Ross, circuit judge, Los Angeles; Judge Wolverton, Oregon; and Judge Bean, Oregon.

Mr. ELSTON. Only one of those you name is from California; all the others are from outside States.

Mr. RAKER. The same statement with reference to the year ended June 30, 1916, to show the condition of the business, and I have the three years, 1916, 1917, and 1918, so as to give the full record of the court. Without reading them, they show the number of cases pend-

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ing, the number of judges that held court during the year, the outside judges transacting business in this court—Morrow, 49 days; Hunt, 1 day; Ross, 1 day; Sawtelle, 26 days; Dietrich, 2 days; Bledsoe, 30 days; Trippet, 5 days, and Rudkin, 18 days. Then it also gives the cases pending, the different classes, and it runs up into the thousands.

Then for 1917, the large number of cases with a tabulated statement showing the kinds and character, with the judges sitting, Morrow, 60 days; Hunt, 62 days; Bledsoe, 15 days; Bean, 10 days; Farrington, 10 days; Rudkin, 42 days; and Wolverton, 12 days—making a total of 211 days.

Then a similar tabulation for 1918, and I have already given you the tabulation for 1919, making the four years. For 1918, it shows the outside judges transacting business in this court—Morrow, 79 days; Hunt, 69 days; Rudkin, 56 days; Trippet, 16 days; Sawtelle, 4 days; Wolverton, 7 days; Beldsoe, 6 days; Neterer, 23 days; Cushman, 26 days; Bean, 16 days; and Farrington, 6 days—making a total of 308 days.

Mr. WALSH. Who is the Montana judge in that list?

Mr. RAKER. Judge Bourquin.

(The tabulations submitted by Mr. Raker are as follows:)

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
OFFICE OF THE CLERK,
San Francisco, October 16, 1919.

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.

MY DEAR SIR: Complying with the request in your recent letter, I give below the data as shown by our docket and records:

Fiscal year ended June 30, 1916.

Civil cases in which United States is a party:	
Number commenced under—	
Customs laws	3
Internal revenue laws	5
Safety appliance laws	3
Land and timber trespass	14
28-hour law	1
Hours-of-service law	3
Food and drugs law	14
Miscellaneous	5
Total	48
Number terminated	97
Number pending June 30, 1916	154
Criminal cases:	
Number commenced under—	
Customs laws	40
Internal revenue laws	9
Post-office laws	34
Banking laws	1
Food and drug laws	7
Sherman antitrust law	2
Interstate commerce laws	4
Counterfeiting laws	32
Miscellaneous	123
Total	252
Number terminated	295
Number pending June 30, 1916	162

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Bankruptcy cases:	
Number commenced	757
Number terminated	605
Number pending June 30, 1916	1,064
Admiralty cases:	
Number commenced	95
Number terminated	91
Number pending June 30, 1916	585
Estates of deceased and deserting seamen:	
Number commenced	337
Number terminated	353
Number pending June 30, 1916	1,648
Other suits:	
Number commenced	175
Number terminated	128
Number pending June 30, 1916	1,368
Outside judges transacted business in this court:	Days.
Hon. William W. Morrow, circuit judge	59
Hon. William H. Hunt, circuit judge	1
Hon. Erskine M. Ross, circuit judge	1
Hon. William H. Sawtelle, district judge	26
Hon. Frank S. Dietrich, district judge	2
Hon. Benjamin F. Bledsoe, district judge	30
Hon. Oscar A. Trippet, district judge	5
Hon. Frank H. Rudkin, district judge	18
Total	142

Fiscal year ended June 30, 1917.

Civil cases in which United States is a party:	
Number commenced under—	
Customs laws	4
Internal-revenue laws	6
Post-office laws	1
Safety-appliance laws	5
Land and timber trespass	6
Hours of service law	1
Food and drugs law	6
Immigration law	2
Miscellaneous	4
Total	35
Number terminated	142
Number pending June 30, 1917	43
Criminal cases:	
Number commenced under—	
Customs laws	41
Internal revenue laws	29
Post-office laws	31
Peonage laws	1
Food and drug laws	11
Interstate commerce laws	5
Counterfeiting laws	21
Miscellaneous laws	114
Total	253
Number terminated	223
Number pending June 30, 1917	194
Bankruptcy cases:	
Number commenced	672
Number terminated	637
Number pending June 30, 1917	1,099

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Admiralty cases:	
Number commenced	95
Number terminated	106
Number pending June 30, 1917	574
Estates of deceased and deserting seamen:	
Number commenced	219
Number terminated	324
Number pending June 30, 1917	1,579
Other suits:	
Number commenced	190
Number terminated	202
Number pending June 30, 1917	1,356

Outside judges transacted business in this court:

	Days.
Hon. William W. Morrow, circuit judge	60
Hon. William H. Hunt, circuit judge	62
Hon. Benjamin F. Bledsoe, district judge	15
Hon. Robert S. Bean, district judge	10
Hon. Edward S. Farrington, district judge	10
Hon. Frank H. Rudkin, district judge	42
Hon. Charles E. Wolverton, district judge	12
Total	211

Fiscal year ended June 30, 1918.

Civil cases in which United States is a party:	
Number commenced under—	
Customs laws	1
Internal revenue laws	6
Safety appliance laws	1
Land and timber trespass	14
Hours of service laws	2
Food and drug laws	3
Immigration laws	3
Miscellaneous laws	6
Total	36
Number terminated	33
Number pending, June 30, 1918	46
Criminal cases:	
Number commenced under—	
Customs laws	66
Internal revenue laws	34
Post office laws	43
Land laws, etc	2
White slave law	6
Food and drug laws	8
Interstate commerce	20
Counterfeiting laws	8
Selective draft law	779
Espionage law	25
Miscellaneous laws	163
Total	1,154
Number terminated	885
Number pending, June 30, 1918	461
Bankruptcy cases:	
Number commenced	590
Number terminated	536
Number pending, June 30, 1918	1,153

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Admiralty cases:	
Number commenced	94
Number terminated	90
Number pending, June 30, 1918	578
Estates of deceased and deserting seamen:	
Number commenced	324
Number terminated	468
Number pending, June 30, 1918	1,435
Other suits:	
Number commenced	137
Number terminated	95
Number pending, June 30, 1918	1,398
Outside judges transacted business in this court:	Days.
Hon. William W. Morrow, circuit judge	79
Hon. William H. Hunt, circuit judge	69
Hon. Frank H. Rudkin, district judge	56
Hon. Oscar A. Trippet, district judge	16
Hon. William H. Sawtelle, district judge	4
Hon. Charles E. Wolverton, district judge	7
Hon. Benjamin F. Bledsoe, district judge	6
Hon. Jeremiah Neterer, district judge	23
Hon. Edward E. Cushman, district judge	26
Hon. Robert S. Bean, district judge	16
Hon. Edward S. Farrington, district judge	6
Total	308

Trusting that this data is what you desire, I remain,
Very respectfully,

WALTER B. MALING, *Clerk.*

Now, Mr. Chairman, a matter with which you are familiar and which can go in the record, I have made an examination of the list of cases and the amount of work done in the various districts in the last report. I have gone over the last four reports.

Mr. ELSTON. Of what?

Mr. RAKER. Of the various cases pending.

Mr. ELSTON. Is this the report of the Attorney General?

Mr. RAKER. Yes; of all the districts of the United States, cases in which the United States is not a party, not including bankruptcy cases, and they run from 42 cases pending in the middle district of Alabama; 46 in the southern district of Alabama; 179 in the district of Alaska; 50 in the second district of Alaska; 109 in the third district of Alaska; 115 in the fourth district of Alaska; district of Arizona, 121; Arkansas, 91; Arkansas, second district, 76. Then in the district of California, the northern district, with two judges, there are 3,132 cases pending at the last report. And I want to call your attention to the fact while there is four times as much work undisposed of, there has been three times more work done by this court than in any other district in the United States, and even with the number of judges who have participated they still have 3,132 cases pending.

Then for the southern district of California, they have two judges, and they have only had 565 cases pending at the end of that year; Colorado, 128; district of Connecticut, 120; Delaware, 156; District Court of Columbia, 1,869. They have six judges. Northern district of Florida, 50; southern district of Florida, 35; northern district of Georgia, 129; southern district of Georgia, 140, with two judges.

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They created an additional judge for that district on May 3, 1915. District of Hawaii, 14 cases pending; district of Idaho, 156; northern district of Illinois, 956, with two judges, an additional judgeship having been created on July 30, 1914; eastern district of Illinois, 98 cases; district of Illinois, southern division, 118 cases; district of Indiana, 183 cases; northern district of Iowa, 111 cases; southern district of Iowa, 146 cases; district of Kansas, 254 cases; district of Kentucky, 254 cases; western district of Kentucky, 218 cases; eastern district of Louisiana, 387 cases; western district of Louisiana, 134 cases; district of Maine, 265 cases; district of Maryland, 65 cases; district of Massachusetts, 565 cases; eastern district of Michigan, 190 cases; western district of Michigan, 89 cases. In the district of Minnesota, they had 979 cases with two judges, an additional judge having been created by the act of July 30, 1914. Northern district of Mississippi, 45 cases; southern district of Mississippi, 101 cases; eastern district of Missouri, 176 cases; western district of Missouri, 287 cases.

Mr. WALSH. Can not you prepare that and insert it in the record, in order to save the time of reading it? We have the Attorney General's report here, but we will be very glad to have a comparative statement.

Mr. RAKER. I will do that.

Mr. WALSH. If you will prepare that in the manner in which you are reading it and give it to the reporter it will go in the record.

Mr. RAKER. I went over the code as prepared up to date by the very efficient clerk of this committee and have inserted where additional judges have been created.

Mr. WALSH. We will be very glad to have that in the record, not only in connection with this bill, but others.

(The memorandum submitted by Mr. Raker is as follows:)

The chairman at this point suggested that I make out a tabulated statement as it related to the various districts. This I intended to do, but in looking over the matter I find that it would be a practical reproduction of the Annual Report of the Attorney General on this question. The committee should have the full data, and to save expense I have come to the conclusion that it would be sufficient to refer to the Report of the Attorney General—Annual Report of the Attorney General of the United States for the year 1919, pages 121 to 207—and of the same report, pages 209 to 296, for bankruptcy proceedings.

Each Member of the Congress has one of these reports of the Attorney General, the same having been sent to him at the beginning of the session. The number and name of the judge of each of the Federal districts is found in the Official Register of the United States for 1917, pages 107 to 111. This volume is also in the office of each Member of Congress.

In looking over any one district for the business transacted in the United States district court for the fiscal year ending June 30, 1919, one will find a very full and complete history. This can be readily compared with any other district. Then turn to the page of the Attorney General's report of the same district as to bankruptcy proceedings: then ascertain the number of judges in the district; it will readily show in a full, clear, and concise form just what has been done for the year and the amount of work going over to the next year.

It is an amazing statement, but true, that in the northern district of California there was on the 30th day of June, 1919, 1,197 cases pending in which no action has been taken within the last five years.

Mr. RAKER. Outside of the one in New York, I will insert it in the record. For instance, here is the district court of New Jersey, 1,277 cases, with three judges. One was created by the act of July 30, 1914. And then the only big district that compares with San Francisco is the district of New York, where they have more cases pending

than in California—3,132 cases in California, with two judges, and 3,572 cases in the southern district of New York, with four judges.

Mr. WALSH. Those figures you give, the 3,132 cases pending, are only suits to which the United States is not a party. There are also 613 criminal cases pending and 108 civil cases to which the United States is a party?

Mr. RAKER. The chairman is correct. In addition, there are 1,105 bankruptcy cases pending (Atty. Gen. Rept., 1919, p. 220), and again there are 1,197 cases pending in which the United States is not a party, while cases have not been called within the last five years (p. 131, Atty. Gen. Rept., 1919).

I worked on that for some time and the report I just gave you corresponds with the report of the district attorney. In other words, there are live cases of the number of 4,958 which are pending, and 1,197 cases pending in which no action has been taken within the last five years.

Mr. STEELE. Did we not have a similar bill in the last Congress?

Mr. RAKER. Yes; and it was reported out favorably by the committee. I want to say just this, and then I would like to have the other gentlemen, Mr. Elston, Mr. Lea, Capt. Osborne, and Mr. Hersman, have a chance to speak on the question. These are live cases. The number of cases disposed of is remarkable, with the length of time it has taken for some cases.

They tried one case where there were some 30 or 40 defendants, and it took them one year to try the case, and they were successful in convicting them all. And San Francisco is so located and so situated at the gateway from the Far East, with all the mining interests north and south, with the main offices of the corporations there, with a large amount of business, and with the shipping interests from the Panama Canal and in every direction; there is an enormous amount of business.

Mr. STEELE. Has this bill the unanimous indorsement of the California delegation?

Mr. RAKER. It has, and I think everybody in California is in favor of it. I think I am correct in stating that generally, am I not?

Mr. ELSTON. Yes.

Mr. RAKER. Now, Mr. Chairman, Mr. Kahn is here, and he desires to get away, and I would be glad to have him make a statement at this point.

STATEMENT OF HON. JULIUS KAHN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. KAHN. The situation in California is rather acute. I notice that Judge Raker has given you the evidence as to the condition of the calendar. While I was in San Francisco recently, many of the attorneys who practice in the courts told me of the serious condition and they all expressed the hope that the legislation for an additional judge in that judicial district would be passed by Congress. I know that the judges themselves are working overtime at every period of the year.

I sincerely hope that you may see your way clear to make a favorable report upon this bill. It was favorably reported in the last Congress and I am sure that the condition warrants the legislation. I am sorry that I can not remain with you longer, but I have a very

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important committee meeting myself and I ask, therefore, to be excused.

Mr. RAKER. I have inserted in the record a copy of the telegram which you sent me some time ago from the Bar Association.

Mr. KAHN. Yes.

Mr. RAKER. The Bar Association is unanimously behind this legislation?

Mr. KAHN. Absolutely. The president of the Bar Association called on me while I was in San Francisco and pointed out the urgent necessity for this legislation.

STATEMENT OF HON. JOHN A. ELSTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. ELSTON. The California delegation, Republican and Democratic, as well as the two Senators, are unanimous in supporting this measure. I think Judge Raker has made a remarkably full statement here and supported it by convincing figures. He has shown that there is a tremendous congestion here in this district. And with the overhang of nearly 3,000 cases, it appears from the figures he has given to be one of the most congested courts in the United States, and it appears by his figures that those two judges have had the assistance from outside judges from the various adjoining States, equivalent in time to an extra judge. So you have before you these figures which Judge Raker has presented to you, showing the tremendous waiting list of cases, with the equivalent of an extra judge sitting continuously with those two judges, and you must take that into consideration in figuring out what are the necessities of this case.

Judge Raker has just drawn to my attention the expense of having those judges from outside jurisdictions and he has the figures for four years showing that outside judges from the States of Nevada, Arizona, Washington, Oregon, and Montana have sat for the last four years for an approximate aggregate each year of over 200 days. And you can figure for yourself what the expense to the Government would be in bringing those judges from outside jurisdictions to take care of that work. So I think Judge Raker's observations are pertinent here, that the Government would probably be at less expense by creating an extra judge than it would be by continuing this practice, which has been going on for four years, of bringing judges from outside jurisdictions. I do not intend to take any more of your time except to say for myself, as a practitioner about San Francisco Bay for about 20 years, that I give this bill my unqualified indorsement, because I know something of the great congestion in that district court.

Mr. WALSH. I would like to ask you, Mr. Elston, if you can explain why the court for the northern district of California has such a tremendous number of cases under the selective service act, which is four times as many as almost any other court, according to the Attorney General's report, in any other district in the United States. What is the particular reason for that; do you know?

Mr. ELSTON. I can not say, Mr. Chairman. I can not recall just what the nature of those cases would be. We have a very vigorous district attorney out there.

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Mr. WALSH. They had 308 cases pending June 30, 1919, and they started 632. In the southern district they started 85 and have only 15 pending. And then in New York the number is very much less. I wondered whether there was some peculiar local situation which would explain it?

Mr. ELSTON. I do not believe there would be any greater number of cases in that jurisdiction than in any other jurisdiction. The only point I would make on the figures you have given is that the pressure of other cases is such that there remains a greater balance of undisposed cases in that district than in most districts.

Mr. WALSH. There were a great many more cases commenced than in any other district.

Mr. ELLSTON. I can not think right now of any particular reason for that. I will only take a minute more of your time to state that I had a personal request from Senator Johnson, of California, to present to the committee his indorsement of this bill and his statement that he has personal knowledge of the conditions. And I think it might be well to put into the record a letter written to Senator Johnson, of date January 13, 1920, by Judge Van Fleet, whose other letters have also been put in the record. It might be instructive for the committee to know, of the two judges in this district, Judge Dooling is a Democrat and Judge Van Fleet is a Republican; so that even in that respect we have both parties combining in recommending this legislation. And I would say that Senator Phelan, of course, has taken a great personal interest in this bill and, as I remember, introduced it in the Senate. So I think you could hardly have greater unanimity back of a bill, supported as it is by both judges of different parties, the entire delegation, senatorial and congressional, the Bar Association of San Francisco and the United States district attorney for the district, as well as the Attorney General himself.

(The letter of Judge Van Fleet, offered for the record by Mr. Elston, is as follows:)

UNITED STATES DISTRICT COURT,
San Francisco, Calif., January 17, 1920.

MY DEAR SENATOR: Referring to your kind suggestion when here on your recent visit for the holidays, that you would go before the Judiciary Committee of the House on your return and urge the passage of Senate bill 1358 now before that committee providing an additional judge for this district, I have been trying ever since to get time to send you some data on the subject to more fully advise you of the urgent necessity for help. My constant engrossing work in the trial of cases, however, has prevented my taking the matter up earlier.

I think perhaps I can do no better than send you copy of correspondence had by me during 1919 with members of our delegation from this judicial district wherein I endeavored to lay before them the facts involved in the situation as it then existed, with the assurance to you that the conditions then existing have not been relieved, but have been since very considerably augmented by the inflow of unusually large numbers of admiralty cases, and pure food, narcotic drug, and prohibition enforcement prosecutions.

I shall not burden you with a copy of the correspondence with all our members, as that with Judge Raker will disclose the situation, the information conveyed to all of them being largely similar. It will be sufficient to say that besides my assurance from the latter I received responses from Messrs. Curry, Kahn, Nolan, Lee, and Elston, all expressing their appreciation of the necessity and promising to lend their aid in getting the bill through. I am satisfied that you will find already before the committee data furnished by the clerk and United States attorney, which will tend to show the absolute necessity for an additional judge if the work of this district is to be anywhere near kept up. Unfortunately, as perhaps you may have heard, Judge Dooling has been ill and incapacitated for work since early in 1919, and there is yet no immediate prospect of his return to the bench, and while we have had as much help from judges

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of other districts as they could afford, it has not sufficed to make any considerable impression upon the great accumulation of business now awaiting disposition: to say nothing of that which is constantly coming in in increasing volume. Indeed, as I have stated in that correspondence, the volume of business normally arising in this district in recent years is more than three judges working constantly could properly dispose of, while during the past two years the influx of business under the war statutes, and more recently under the prohibition and narcotic drug acts has been greatly in excess of normal.

The resident circuit judges have also aided to the extent of their ability to keep the other division of the court open when no outside judge was available, but that help has consisted only in hearing current uncontested matters as their duty in the court of appeals prevents their taking up the trial of causes. The consequence is that we are swamped to an extent that is rendering it hopeless to give any prompt or efficient aid either to the Government or private litigants in disposing of the great accumulation of cases.

During the last Congress (I think in May, 1918), I appeared before the subcommittee the on Judiciary of the House and made a statement of conditions as they then existed, and the bill before them, of which the present one is a copy, was I think unanimously recommended for passage but unfortunately it could not be brought up during the session of that Congress, so we are still in precisely the same situation. That statement was, I believe, taken down and transcribed and possibly may still be in the archives of the committee.

If you can aid in securing consideration of the bill, I can assure you your efforts will be greatly appreciated, and should the committee desire anything further as to the volume of the business than they now have before them, we shall be only too glad to furnish it.

With sincere regards, yours, very truly,

WM. C. VAN FLEET.

Hon. HIRAM W. JOHNSON,
United States Senator, Senate Annex, Washington, D. C.

Mr. RAKER. Capt. Osborn used to be the marshal and understands court matters very well, and we would like to have a statement from him.

STATEMENT OF HON. HENRY Z. OSBORNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. OSBORNE. Mr. Chairman, I have some general information as to the condition of things in the Federal courts in California. I was for something over eight years United States Marshal for the southern district and, although some time has elapsed since, I know what the conditions were then and I know they have been increasingly pressing since that time.

The difficulty in keeping up with the calendar in the Federal courts of California I do not need to tell you of, gentlemen, because I am not a lawyer and you are; but where a calendar is not kept up with some degree of thoroughness, or where it is not covered completely, amounts to a denial of justice. Men lie in jail there often for months, and I might say in some instances for years, without being able to secure a trial, and civil cases go over a great deal longer than they should.

The judges of the district court in San Francisco, Judge Van Fleet and Judge Dooling, are both very capable men. Judge Van Fleet was justice of the Supreme Court of California for many years and he is a jurist of very great efficiency and ability. There is no fault to be found with their work. In our southern district we had for years Judge Wellborn as our judge. Judge Wellborn nearly worked himself to death. He has retired from the bench now. He was alone on the district bench and it was a physical impossibility for

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one judge to keep up with that calendar. I know Judge Van Fleet so well that I have no hestiancy at all in reaching the conclusion which he sets forth there, and I am heartily in favor of this bill.

You will notice there are a great number of cases pending in the southern district. We now have two judges there—two very able judges, in Judge Bledsoe and Judge Trippet—and even there we have 568 cases pending, which I notice is just about the same number as those in the United States Court of Massachusetts; while in San Francisco they have over 3,000 cases pending.

I sincerely hope that the committee will find it compatible with justice to favorably report this bill.

Mr. RAKER. Mr. Lea is a practitioner and has been in the court and knows the situation in San Francisco.

STATEMENT OF HON. CLARENCE F. LEA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. LEA. Mr. Chairman, I think this matter has been fully presented on its merits. Some time ago I submitted a letter to the committee and I would like to ask to have that inserted in the record instead of making any remarks. I would say, however, that Mr. Osborne's remarks call a fact to my attention that I noticed just a few days ago in a California paper. A man who was charged with crime before the District Court in California was held in jail a year and the other day succeeded in getting bail without ever having been brought to trial, on account of the congested conditions in that court.

The condition there has been one known to every lawyer around the San Francisco Bay section for quite a long number of years now, and the need is very pressing.

I thank you.

Mr. RAKER. Mr. Hersman's district is also affected, and I would like to have you hear from him.

STATEMENT OF HON. HUGH S. HERSMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. HERSMAN. I can add nothing in the way of specific information to what has been said, but I will say that when I was home at Christmas time the attorneys in my district, whom I know, were very much interested in this matter and when it was going to be acted upon, and they showed a keen desire and a keen appreciation of the necessity of enacting such legislation that will provide them with adequate facilities for carrying out justice in California. Not being an attorney, and not being familiar with the details, of course, I can not speak from personal experience; but I can assure you that those attorneys whom I know in my district are very much interested in this legislation.

Mr. RAKER. In conclusion, may I say this: I have been somewhat familiar with the situation in the northern district of California for some 35 years or more, having actively engaged in the practice of law until I went on the bench, and then have been familiar with it since, having been before the various courts there. I know Judge Van Fleet well, having argued many cases before him when he was on the supreme court, and also Judge Morrow and Judge Dooling.

There is a bill here to create a new district. It will be at Sacramento, and closer to my home, but frankness and the facts are what the committee want. San Francisco is 90 miles from Sacramento, is it not, Mr. Elston?

Mr. ELSTON. Yes.

Mr. RAKER. All of us go to Sacramento, but no matter how we love it and how we like to practice there, the business and the people go to San Francisco. And, as Judge Van Fleet says, if you create a new district there, the judge would only be occupied about half of the time. So that as to the interests of the people living even where I do, farther away from San Francisco than any other place, the business will drift to San Francisco, and my idea is that you will get the full benefit of the judge and the full benefit of the work by creating a new judge for that district and, to the number of litigants as well as the witnesses, it will make no difference if you create a new judge for San Francisco rather than creating a new district. That is my view of the matter. Is not that true, Mr. Lea?

Mr. LEA. Yes; there is no doubt about it as far as our section is concerned.

Mr. RAKER. Mr. Lea is about 40 miles from San Francisco?

Mr. LEA. Fifty-two miles.

Mr. RAKER. And he would be in the new district if created and so would I, but frankly and clearly, I believe in the interests of the litigants you should create a new judge rather than a new district.

Mr. WALSH. Of course, if you create a new district you would have to create additional machinery—marshals and clerks?

Mr. RAKER. We have that machinery already there; we have a courthouse, a deputy clerk, a deputy marshal, and a United States deputy.

Mr. WALSH. How many sittings of the court?

Mr. RAKER. Two and three times a year, and sometimes four. And there is a grand jury in session all the time. It meets every two weeks and the judge goes up there and holds court.

Mr. ELSTON. The chairman is right, that it would create additional positions that would aggregate much more than the salary of the judge?

Mr. RAKER. I think so.

Mr. ELSTON. I do not know very much about the figures, as to the necessity for Mr. Curry's bill, so I would not want to say.

Mr. RAKER. I am just saying, as the chairman referred to both of the bills in the notice, and I felt he wanted to know our opinion of the matter and the conditions that actually exist, while personally one feels a little pride in having a court as close to his constituents as possible, yet I believe San Francisco will give the service to all concerned.

Mr. LEA. I think I should modify my statement slightly as far as my district is concerned. There is a section of my district that would prefer the court at Sacramento. However, I believe the merit of it to be as Judge Raker submits.

Mr. WALSH. You think the relief would be granted by providing an additional judge at San Francisco, in the northern district?

Mr. LEA. Yes; that a judge at Sacramento would not have business enough to keep him busy; but a judge at Sacramento could attend to all the business now brought in the northern district and relieve the congested condition at San Francisco to that extent.

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Mr. STEELE. But the people would rather travel the greater distance, because of the attractions of the larger city?

Mr. RAKER. I will say this to you, that we have a supreme court of seven judges, and under the Constitution and under the law they should remain at Sacramento. They tentatively hold court there twice a year, but I know that for 10 years the supreme court judges have lived and done all of the business in San Francisco, and when an attorney wanted to get any extraordinary writ, such as habeas corpus, mandamus, or certiorari, and so forth, he went to San Francisco and the court only came to Sacramento during May and November of each year.

Mr. STEELE. The human nature you have in California exists in Pennsylvania. We have the same thing in Pennsylvania. We have sessions of the court at Philadelphia, Harrisburg, the capital of the State; and at Pittsburgh. And most of the lawyers in the western part of the State, up around Lake Erie, would rather pass the capital at Harrisburg and go right on to Philadelphia and try their cases there than to stop at Harrisburg.

Mr. OSBORNE. I would like to say on this question, if there is a question between a new district and a district judge, I would rather be understood as not expressing any opinion on that subject. I know of the general needs of an increase in the judicial help there, but I would not like to pass upon a question that is local up there in Sacramento and with which I have nothing to do.

Mr. WALSH. But you are of opinion there is need for one or the other; either a new district or an additional judge?

Mr. OSBORNE. Yes; emphatically.

Mr. RAKER. Of course, in saying this, I might add that my district surrounds Sacramento more than that of anybody else. It is to the north, east, and south of it, clear around Sacramento.

Mr. WALSH. We thank you very much for the facts presented.

(The following letter was submitted for the record by Mr. Lea:)

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D. C., August 9, 1919.

THE COMMITTEE ON THE JUDICIARY,
House of Representatives, Washington, D. C.

GENTLEMEN: I call your attention to Senate bill 1358, now pending before your committee, which attempts to provide an additional judge for the northern district of California. This bill was passed by the Senate at the last session and was reported favorably by the Judiciary Committee, but failed to get consideration before the House, owing to the press of business at the end of the session.

The demand for an additional judge in this district comes from the bench and bar of California, where for several years the Federal courts have been crowded, and the disposal of litigation delayed to a degree that in many cases amounts to a substantial denial of justice.

In response to an inquiry as to present conditions in this court, the Hon. Ben F. Geis, Assistant United States Attorney at San Francisco, informs me that the district court has had outside judges for 276 days during the past fiscal year and that at the present time their most earnest and pressing requests to outside judges are met with a candid statement of urgent business in their own districts. He states there are now over 650 cases pending in which the United States is a party; that there are approximately four times as many cases pending in which the United States is not a party, in addition to bankruptcy cases. During the last fiscal year 324 bankruptcy cases were filed in this court and 743 civilian petitions for naturalization. Over 700 criminal cases were disposed of during the last year and over 900 new criminal cases filed. Over 350 civil cases were disposed of during the year and over 500 filed. The admiralty docket was much crowded.

Sincerely, yours,

CLARENCE F. LEA.

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SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Wednesday, February 18, 1920.

The subcommittee, at 11 o'clock a. m., proceeded to the consideration of H. R. 12101, Hon. Joseph Walsh presiding.

STATEMENT OF HON. GILBERT A. CURRIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN.

Mr. CURRIE. The bill, Mr. Chairman, is one introduced by Congressman Nichols providing for an extra judge in the eastern district of Michigan. I have not made a study of the situation for the reason I knew the Detroit bar would have representatives here who would understand the situation far better than myself.

The main point, apparent to anyone, is that Detroit during the last few years has more than doubled in population and that in this eastern district of Michigan are located other industrial centers—cities that are rapidly increasing in population and business enterprises, notably the cities of Lansing, Pontiac, Flint, Saginaw, and Bay City. I am quite certain as to the accuracy of this statement, but Mr. Hicks, who will follow me and present the case on behalf of the Detroit Bar Association, will be able to furnish you with accurate figures, that a reference to the report of the Attorney General of the United States for the year 1918 will disclose the fact that the judge for the eastern district of Michigan actually handles a volume of business equal, on the average, to any two Federal judges of the United States.

Mr. STEELE. More than the Indiana judge?

Mr. CURRIE. I can not make the comparison district by district, but Mr. Hicks, who will follow me, can give the figures.

Mr. WALSH. How about the year 1919, Mr. Currie?

Mr. CURRIE. I had not those figures available at the time I made a brief investigation of the merits of this bill, and I will ask Congressman Doremus, who has the figures for 1919.

Mr. DOREMUS. The figures in a comparative statement compiled from the report of the Attorney General for 1918, showing the volume of work in certain particular classes of litigation for the United States district judge, from July 1, 1917, to June 30, 1918——

Mr. CURRIE. No; the figures for 1919.

Mr. WALSH. They are in the Attorney General's report for 1919, and show a very great reduction in the business. They either had an extra judge go in there or else he was able to make progress, because he terminated 342 cases in 1919.

Mr. DOREMUS. This man has been holding night sessions.

Mr. CURRIE. Mr. Hicks is now present, and I will ask you to allow him to proceed. Mr. Chairman and gentlemen of the committee, I present Mr. Arthur Hicks, who is vice chairman of the committee of the Detroit Bar Association, which drafted the bill providing for an extra judgeship for the eastern district of Michigan, which measure was introduced by Congressman Nichols.

Mr. WALSH. We will be very glad to hear you, Mr. Hicks.

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STATEMENT OF MR. ARTHUR HICKS, OF DETROIT, MICH., VICE PRESIDENT OF THE DETROIT BAR ASSOCIATION.

Mr. HICKS. Gentlemen of the committee, I want to thank you for the privilege of presenting to you these matters in connection with the extra judgeship, on behalf of the Detroit Bar Association. The present eastern district of Michigan, consisting of two divisions, one at Detroit and one at Bay City, was established in 1878 at a time when the population of the city of Detroit was around 100,000, and the towns within that district having a population of 10,000 were exceedingly scarce. At that time, in the city of Detroit, there was one circuit judge in the State court and in no other district in any other county in the eastern district of Michigan was there more than one circuit judge. At the present time, we have 10 circuit judges working in Wayne County and they are unable to make any headway on the docket.

Mr. STEELE. Is that the county in which Detroit is located?

Mr. HICKS. That is the county in which Detroit is located. In addition to that, we have a system in our State by which they send additional circuit judges from the other counties of the State to assist in the business at Detroit, and there are from two to four of those judges present all the time. And, even with that additional help, they are not able to make any progress on the docket.

Detroit has now become, what we hope, at least, this census will show, the fourth city in the United States. At the very least, it will probably be the fifth city, with a population of considerably over 1,000,000 people. Detroit is located very peculiarly with relation to the business which comes to the Federal court. The first thing I will mention in connection with that is the admiralty business. There are only two or three districts in the United States which have any amount of admiralty business. Detroit is in one of those districts. It is situated on the Detroit River and by reason of the fact that the tonnage which goes through the Detroit River, as all of you know, is greater than the tonnage which goes through any river or any waterway in the world, it is a very convenient place to get service on boats as they go down the Detroit River. And, for that reason, there is a considerable amount of admiralty business and nearly all of it is in the southern division of the eastern district of Michigan.

Not only that, but the tremendous growth, not only in Detroit, but in the other automobile cities situated in the eastern district of Michigan, has brought a tremendous influx of foreigners. And that brings me to the question of the matters of citizenship which come up. In the report which will be filed with you, which was prepared in the Attorney General's Report of 1918, I think it is stated that the naturalization business of the southern division occupied about one day a month. At the present time it is occupying two days of the court's time every month. And Judge Tuttle has a very systematic way of handling it. He handles about 200 cases in those two days. He arranges to have the witnesses come in with the applicant every 30 minutes all day long, and he operates his court from 9 o'clock in the morning until well into the night, in order to take care of this naturalization business.

In addition to that, there is the naturalization of the soldiers, who do not have to comply with the same rigid requirements that are required in ordinary naturalization cases, and in order to make

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it convenient for them, on every Monday, in the afternoon, he takes up those cases. I happened to be in his court yesterday afternoon and he had, I think, nine of those soldiers' cases before he could begin the regular business of the afternoon.

In addition to that, only yesterday I heard the clerk of the court ask him for four days of his time for the hearing of these alien enemy cases—naturalization cases. As perhaps you may know, those are just now being opened up and the naturalizaion office has asked for four days of his time, right away, to take up those cases. Those matters are matters which will drag along for a considerable length of time.

In relation to the patent litigation, the tremendous increase of industry in the eastern district of Michigan has brought with it a tremendous increase in patent litigation in that district. As you know, Michigan, and the eastern district of Michigan particularly, is the hub of the automobile industry of the world. More automobiles are manufactured in the eastern district of Michigan than are manufactured in the entire United States outside of that district. I think probably (I am sure I am not exaggerating) it would be safe to say that 75 per cent of the automobiles in the United States are manufactured in the eastern district of Michigan. Probably most of you know the cars that are manufactured in Detroit, but I want to call your attention to the fact that Pontiac, where the Oakland cars are manufactured and the General Motors have their truck factory, is in the southern division of the eastern district. Flint where the Chevrolet car and where the Dort car is manufactured is in the eastern district of Michigan. Lansing, where the Reo car and the Oldsmobile and the Duplex truck are manufactured is in the eastern district of Michigan. I could enumerate a list of a hundred automobile and truck concerns alone located in the eastern district. Now when you realize there are between 130,000 and 150,000 patents that pertain to motor vehicles alone, you can see there must be a tremendous amount of litigation pertaining to that particular industry arising in the eastern district of Michigan.

Another thing I want to call to your particular attention is that with the shifting of the population in the State of Michigan, since this district was established, there are now 9 of the 13 Congressmen coming from the State of Michigan who come from the eastern district of Michigan. That illustrates the discrepancy in population between the territory served by the eastern district of Michigan and that served by the western district of Michigan, which would affect the situation connected with the eastern district of Michigan.

Even if the State should be redistricted, so as to put, we will say, practically all of the territory now in the eastern district of Michigan in a separate district and leave Wayne County separate, judging from the cases as they appear on the docket of the southern division and as they appear in the northern division of that district, little relief would be afforded. Judge Tuttle tells me he can dispose of the business in the northern district in a little more than a week of each term and he utilizes that situation in order to get a little respite from the strenuous duties at Detroit and takes a little more than a week each term up there, but he only spends the week, from Tuesday to Friday there, and then comes back to Detroit, and on Saturday he hears patent cases and matters of that character that can not be

heard in the rush of a busy week, and on Monday he handles his motions and goes back to Bay City Monday night and holds court there Tuesday, Wednesday, Thursday, and Friday, for a period of about three weeks, at each of the two terms a year.

Those of us who have practiced in the United States court know something about the speed with which the cases are handled there. Judge Tuttle is a comparatively young man, as judges of the district courts go, and a man of great endurance. And what happens is that when we get over there in the trial of a case, in place of following the usual hours of the court, which in the State courts are from 9.30 to 12.30, and 2 to 4, his hours are from 9 o'clock to 12, and from 1.30 or 2 o'clock to 5 every day. Those are his orderly hours for conducting court. But, as a matter of fact, when you get over there in a jury case you are liable to be stuck there until 10 or 12 o'clock at night. And that has been a matter of much unfavorable comment by the attorneys who have been practicing in that court, because it gives them absolutely no time to look after matters of detail in their offices and certain special matters which come up incidentally in a case. These long hours have made it very difficult for them when coming to trial. I remember the comment of one attorney, made a week or so ago, who has been engaged in the trial of a case which has been long drawn out. He said to Judge Tuttle, "If I had to practice law in this court all the time I would quit practicing law, because of the long hours we have to put in here being too much for a man who has the business of an office."

In the statement which will be handed to you, there is a comparison made between the work which is transacted in the eastern district of Michigan and the work of the western district of Michigan, different divisions of the sixth circuit of which Michigan is a part (which includes Ohio, Indiana, and Kentucky, but does not include Illinois), and the work in the district courts of the United States outside of Alaska, the District of Columbia and the insular possessions.

Mr. BOIES. I might say with reference to the district courts generally, outside of your own district, those figures have been placed in the record this morning by the gentleman from California and it will not be necessary for you to go into that for the information of the committee.

Mr. HICKS. I won't spend any time except to say that I took this statement and checked it up with the 1919 report of the Attorney General. The figures which will be presented in our statement are from the 1918 report of the Attorney General, and those are the figures——

Mr. BOIES. You can let them go in the record, but without the taking time to call attention to them.

Mr. NICHOLS. We have a brief statement and I suppose it would be all right to file it, because it contains, in addition to those figures which you say are already in, so much further information relative to Michigan.

Mr. STEELE. The statement shows the growth of the litigation in Michigan?

Mr. NICHOLS. Yes.

Mr. HICKS. No; it is a comparison.

Mr. BOIES. The only thing I raised the question about was the comparison with the States generally outside of your circuit court,

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because it is also in the record. Your statement may be placed in the record as a part of the presentation, but for the information of the committee we do not need it this morning.

Mr. CURRIE. Mr. Hicks, do you understand, as far as the statistics you have there they may be inserted in the record and made a part of your case, you need not spend any time on them in the argument?

Mr. HICKS. I won't spend any time on the argument except to give you some additional figures which we have compiled from the record.

Mr. CURRIE. If you will permit me, Chairman Walsh inquired just before Mr. Hicks came this morning concerning the showing by the Attorney General's report, concluding with June 30, 1919, I think that would be very interesting, because the chairman inquired about that.

Mr. HICKS. The showing I have here is as to the eastern and western districts of Michigan. I did not have time to make a compilation in relation to the other districts.

Mr. CURRIE. I think, Mr. Hicks, if you will pardon me, the chairman of the committee, Mr. Walsh, was under the impression that the pending cases had decreased for the year ending June 30, 1919, and that, therefore, there might be some question about the showing which we made based upon the report ending June 30, 1918.

Mr. HICKS. I can give you that information right now. For example, the criminal cases commenced (these are items taken from the Attorney General's report for 1919) in 1918 were 334. In 1919 there were 384. The criminal cases terminated in 1918 were 334, and in 1919 342; nolle prossed, 47 in 1918; 62 in 1919; quashed (we had a time quashing cases in 1918) 62 and this year 4. Pleas of guilty, 162 in 1918 and 215 in 1919. Criminal jury trials, 63 in 1918: 59 in 1919. Sentences and convictions, 220 in 1918; 263 in 1919. Individual sentences to prison terms, 177 in 1918; 164 in 1919. Criminal fines collected, $21,615 in 1918; $149,585 in 1919. Civil judgments for the United States, $13,812 in 1918; $11,804 in 1919. Admirality cases, 15 in 1918; 13 in 1919. Bankruptcy cases—there was a falling off, but by a comparison of the reports of other circuits you will find that was uniform.

I might insert a word here in relation to the bankruptcy matters. You will find there are a great many of the bankruptcy matters over there have been connected with the large automobile concerns and they do bring more litigation in the United States court in connection with motions and matters of that character than the ordinary run of business in bankruptcy, because of the large amounts involved and the claims of the creditors and the peculiar relations existing between the creditors of the automobile concerns which are different from those relations existing in ordinary business transactions. There were 347 bankruptcy cases terminated in 1918 and 487 in 1919.

Mr. STEELE. What is the percentage of the growth of the business in that district?

Mr. CURRIE. For the benefit of Mr. Steele, just repeat the statement with reference to the growth of the business.

Mr. STEELE. Just the result.

Mr. HICKS. The increased population?

Mr. STEELE. No, not the increased population, the growth of the business.

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Mr. HICKS. I could not give you the increase of the business of the court from the time the district was created, because I do not have that available.

Mr. CURRIE. For Detroit you have it.

Mr. HICKS. Detroit was 110,000 when this district was created and now it is something more than 1,000,000.

Mr. CURRIE. And they had one circuit judge?

Mr. HICKS. One circuit judge, and in the State courts they now have 10 circuit judges, and they are unable to make any headway against the business now.

Mr. CURRIE. Do you know whether any other district judges are ever sent into Detroit to alleviate the situation?

Mr. HICKS. I want to discuss that question in just a moment, if you will permit me to postpone it. There were 83 civil cases terminated in 1918 and 111 in 1919. There were 92 other civil cases—that excludes automobile bankruptcy, and so on—commenced in 1918, as against 96 in 1919. So that you will see there is a considerable increase in the amount of the work.

In this table you will find the excess in the amount of work over the average of the six other district judges in the sixth district. That was obtained by a tabulation of all of the districts in the sixth circuit and divided by the number of judges at work in the sixth circuit. I think you will find that the work has been all in the eastern district of Michigan, which will have very nearly doubled in all instances that done by any of the nine district judges in the sixth circuit.

I do not know that I need to make any further comments, except to say that the report of the Attorney General for 1919 shows that the conditions are growing worse instead of better. I know this, that since Judge Tuttle took a vacation of about four weeks along in the month of September, the first he has taken since he went on the bench in a period of six years, he has had a jury there continuously since that time, and I am very sure he has not tried more than two civil cases during that period. He returned, I think, somewhere about the 1st of October, and he has been continuously grinding on criminal work since that time. One of those cases is a conspiracy case which has been in progress for some time. Perhaps I should not say civil cases, but civil jury cases, because he may have sandwiched in some patent or equity cases during that time.

Mr. GOODYKOONTZ. Is he trying the Newberry case?

Mr. HICKS. No; he is not; that is over in the western district. He is trying a conspiracy case there involving an attempt to defraud the Government on some Army bids.

Mr. DOREMUS. That has been going on for a number of weeks?

Mr. HICKS. That has been going on for a number of weeks, and just now it is being suspended temporarily on account of the illness of a juror and also, I think, one of the respondents. I think he has been in the actual trial of that case for about six weeks.

There is another thing in connection with the work I omitted in discussing the reasons why the work in that district is so heavy. It arises out of the fact that we are a border city, and it is very easy to get across the river. We get a great many smuggling cases; we get a great many Chinese exclusion cases, and the fact that Canada has just gone wet and the national prohibition law is in force makes it

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apparent that we are very likely to get a tremendous quantity of illegal transportation of liquor cases. Up until a few months ago the burden of that was on the other side of the river.

Then I want to call your attention to another thing, and that is the question of sending in an additional judge. Perhaps I can best settle this matter by calling your attention to the report of the Attorney General for 1919, on page 3, in which he makes this recommendation:

The act of October 3, 1913, amending section 18 of the Judicial Code, provides that the Chief Justice may, if in his judgment the public interests so require, designate and appoint the judge of any district court in another circuit to hold a district court within the second circuit, I recommend the amendment of said section of the Judicial Code so as to extend its provisions to all circuits.

I do not know what the occasion was for the passage of that act especially applying it to the second circuit, but I do know this——

Mr. GOODYKOONTZ. What is that circuit?

Mr. HICKS. That is the New York circuit. I do know this, that in order to get a district judge from another circuit into Detroit, the red tape that has to be followed out is such as to make it absolutely impracticable. In fact, I may say that Chief Justice White, of the United States Supreme Court, has expressed himself as being utterly unable to be of any help to the situation. Judge Tuttle made a desperate attempt to bring that about last summer, and he found, much to his surprise, that in order to get a judge to go in there and carry on the work, while he took a vacation, which was his first for six years, he had to certify, among other things, to the Chief Justice of the United States Supreme Court, that he was physically unable to conduct the business of his court, in order to have the Chief Justice of the Supreme Court make the necessary arrangement to designate an additional judge. And at that time he had a judge from the district court of Texas (I have forgotten his name) who was ready and willing to come there; but on account of the provisions of the statute, he was unable to take advantage of it. It is only in cases when a judge is disqualified, as I understand, or when he is physically unable to attend to the business of his court, that another judge can be designated to hold court there. And the business of the surrounding courts is such that they have no time to give to that business. Occasionally Judge Sessions comes down there in cases in which Judge Tuttle is disqualified for one reason or another. I think on one occasion Judge Killits has been up from Toledo. But it is only in those extraordinary cases he can get any relief from the outside courts.

Now it is an injustice to the litigant in the eastern district of Michigan and it is an injustice to the lawyers engaged in the practice of law there to let the condition go on as it has been going. It is apparent that relief must be obtained or either one of two things has got to happen: Either Judge Tuttle has got to cut down his hours of court and follow the usual practice of judges and do what work he can do comfortably and let the business pile up worse than it is at the present time; or, if he continues to work as he has been doing in the last five or six years on the bench, it is only a question, I think, of a year or two before Judge Tuttle is going to break. And there are times now (and I am not making any reflection on Judge Tuttle,

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because he is a very dear friend of mine) when his nerves are strained to the breaking point and he does and says things in the court room that are as unlike Judge Tuttle as anything in the world can be, and things which, when he has recovered himself, he is sorry for and makes apology for. And the only reason under the sun for his doing those things, as I think any man who knows Judge Tuttle will say, is the fact he is worked to death or, rather, is working himself to death because he would not follow the practice, which is followed by a great many district judges, of doing what he could and letting the rest go and letting some one else do the worrying.

Mr. STEELE. Has the judge made a request for this legislation?

Mr. CURRIE. I do not know whether the judge has or not. I think you have covered it in the explanation you have just made, what an unusually diligent and efficient judge Mr. Tuttle is. The proposition suggested by Chairman Walsh probably did not refer so much to the volume of business and a comparison of the volume of business between the years 1918 and 1919 and which seems to have been even greater in 1919 than in 1918——

Mr. HICKS. Yes.

Mr. CURRIE (continuing). But to the fact the cases pending on June 30, 1919, were less in number than those which were pending on June 30, 1918.

Mr. HICKS. Perhaps there is another reason for that, too. There are cases, if it were not for the burden of the work there, that would find themselves in the United States district court. They are not there because of the situation existing.

Mr. CURRIE. I called it to your attention to see if there was any other explanation to account for the fact there were fewer cases pending.

Mr. HICKS. In other words, where there is a case of diversity of citizenship and the lawyer is making up his mind in what form he is going to start his case, he takes into consideration the condition of the dockets in both of the courts and the conditions which will surround the trial of the case. The situation is such over there that you have no idea when you are going to be called to trial and you are driven into a case on a minute's notice because of the fact you are sandwiched in with other cases—a criminal case falls down and they have to have something to take its place and they call you up and say you are to go on tomorrow morning.

Mr. STEELE. Has the judge himself made any request for relief?

Mr. HICKS. Yes; he has. The fact of the matter is, the judge is very seriously interested in this matter.

Mr. CURRIE. Has his request been made direct to any of the Congressmen or just to the bar association informally?

Mr. HICKS. It has been made informally to the bar association, and it has been the subject of discussion of the committee of the bar association with him on several occasions. In fact, a great many of these suggestions that are contained in this statement which is filed here have come from Judge Tuttle.

Another thing that illustrates the increase in the business there: Since Judge Tuttle went on the bench the district attorney's force has been increased threefold. At the time he was district attorney—and he went from the district attorney's office directly on the bench—he had himself and two assistants. Now there are the district attor-

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ney and five assistants. In the same length of time the force in the clerk's office has been increased threefold. In the last few days they have put in two additional clerks there, because the quantity of business coming into that court is so great that they can not handle it with the quipment they have had heretofore; and Mr. Voorhes, the clerk, told me only yesterday that the business in that office now, with the additional clerks hired, would in itself impose an additional burden on the district judge because of the fact that matters they had heretofore been obliged to neglect on account of the insufficient help, they are now, having the help, bringing to the attention of the court, and again an additional amount of time is required.

Mr. DOREMUS. Will you call the attention of the committee to the fact that Judge Tuttle's predecessor served about a month and then resigned because he could not carry the burden?

Mr. HICKS. That is covered in the statement which will be filed here. After the retirement of Judge Swan, who had been on the bench for a good many years at least before I began practicing law, Judge Angell, a prominent attorney in Detroit, son of ex-President Angell, of the University of Michigan, was appointed to succeed him. He was on the bench for 11 months and resigned because he did not have the physique to stand the burden of the litigation in that court, and, upon his resignation, Judge Tuttle was appointed as his successor.

I want to mention another matter in connection with this, the manner in which cases are handled which do come up for hearings.

In the first place, you who are practical lawyers know that, especially in equity cases, it is imperative that the judge have a little time to spend in his chambers in which he can examine the law and prepare opinions in cases. But when, as I have told you before, he has a jury there practically the entire time and is running the sort of hours that I have outlined to you, you can see that he has little or no time for the preparation of opinions in cases which require the writing of an opinion.

Not only that, but there are an enormous number of chancery and admiralty cases, and even bankruptcy cases, that should in justice to the litigants and the attorneys be heard in open court, at least in part. It is an unusual thing in the United States District Court in Detroit for a chancery case, or anything of that character that is ordinarily heard in open court, to be heard by the court. The cases are referred to a standing master, who is so overburdened with work that he can hardly give time to attend to a case. And I know that by bitter experience, because I have tried several cases there which have taken several days to try, that the standing master has been utterly unable to make his report on them for a period of from five to seven months, because of the burden on him.

Mr. GARD. Why do they not have another master?

Mr. HICKS. I could not say why they have not.

And not only is that true, but in order to get the cases disposed of the attorneys have in several cases, to my knowledge, adopted a practice which is dangerous and unsatisfactory of referring ordinary law cases which should be heard by a jury to the standing master and taking the testimony in that way and disposing of it. Now, I say it is unsatisfactory and it is unsafe from the standpoint of the lawyer and of the litigant to follow that practice because of the

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complications that arise when those cases come up for hearing before the district judge, and again when you undertake to review them in the United States Court of Appeals; and if you will read the opinion of the United States Court of Appeals affecting cases that are heard and submitted in that way you will get the drift of what I mean with reference to cases of that kind.

The situation is a serious one there. It is a serious one in so far as it affects the health of Judge Tuttle, who, I think you will all agree, is a very competent judge. It is a serious situation as affecting the practicing attorneys at the bar in the eastern district of Michigan, and it is a serious one as affecting the litigants in that district. It is a matter which has been given very serious consideration by the bar association and especially by this committee which has been appointed to investigate the matter.

And I want to give you gentlemen this assurance: that the Detroit Bar Association is interested in just one thing in connection with this matter, and that is getting relief for that situation. We have canvassed the situation thoroughly, and we believe that relief can only be obtained by the giving of an additional district judge. We believe that any other method of disposing of the question would not give any perceptible relief to the situation existing there. We have no strings to pull for any candidate; we are only after one thing, and that is a relief for this situation.

I thank you gentlemen for the time you have given me.

Mr. BOIES. Is there any other gentlemen who wishes to be heard?

Mr. CURRIE. With the consent of my colleague from Michigan, I would like to introduce Representative Dempsey of New York, who is present and wishes to speak a very few minutes. Mr. Dempsey is somewhat familiar with the situation in the Federal court at Detroit.

STATEMENT OF HON. S. WALLACE DEMPSEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK.

Mr. DEMPSEY. Mr. Chairman and gentlemen: I do not want to apologize, but I do want to explain how I happened to ask to be heard in regard to the Federal court situation in Detroit.

I have had some legal business with Mr. Hicks's firm for some time, and they knew that I was connected with the United States courts for some 12 years before I came to Congress, first as assistant United States attorney, and then as special counsel to prosecute the Standard Oil Co.

I am only going to speak here in a general way of the situation, because I can not pretend to be familiar with details or with statistics. I am going to say to you what you yourselves are familiar with; but I am going to attempt to speak of it in a collective way.

The city of Detroit was on a par with the city of Buffalo for many years. In fact, Buffalo was the greater city of the two in population; but to-day Buffalo has only about half a million people, while Detroit, as it has been well said, has over a million. There are in the eastern district of Michigan nine Congressmen; and that probably makes it represent 2,500,000 people in the entire district. There has been a most marvelous growth there; and that growth has not stopped; it is continuing. In determining the question, you have not simply present circumstances, but you have the future, for which to provide.

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It has been well said that the volume of litigation, if there was any falling off in 1919, is very easily attributable to a single circumstance. Take patent cases; take marine cases. You can bring your patent case wherever there is an infringement; you can bring your marine case wherever you can reach your vessel. And so, knowing that the docket is overcrowded in Detroit, the natural result would be for the litigant to seek a place where he could get his case tried and determined in a reasonable time.

So that if there is any falling off, it is unquestionably due to that circumstance, and can not be due to any falling off in population, because that population is growing, growing like a weed, and growing all the time; and the business must naturally increase rapidly and in very large volume.

Now, just contrast the situation in the western district of New York with that in the eastern district of Michigan. We redistricted New York in about 1902, and we then constituted in place of the old northern district the two districts of northern and western New York; and we thought that by that redistricting we had provided for a long time for the needs of both of those districts. But I know that for four or five years now Judge Hazel, in the western district of New York, is in the same situation as Judge Tuttle, although we have not had anything like the same growth, and I know that they have been facing the necessity there of coming to you and asking for an additional judge.

All I can say in conclusion is this: That Detroit, as Mr. Hicks has well said, has forged to a place in population where it is fifth, if not fourth, in the United States. It has had a marvelous growth. Flint is growing in the same way; Pontiac has sprung up from nothing to more than 100,000; and all of that eastern district of Michigan is growing marvelously.

The one thing that has been pointed to as the shame of the law for all the ages has been the law's delay; and you can not remedy the law's delay so long as you do not give enough judges to hear cases. I have a large case myself in the eastern district of Michigan at this time, that was started over a year ago; and I know the uncertainties of the calendar and the delays, because I have been warned repeatedly that that case would be reached; and I am told to-day that there is less prospect of its being reached than I was told that there was soon after I brought it. It is a case involving about $70,000, an important case to my clients, an important one to them to have heard and determined; and yet I can not see that there is any present prospect of its being reached in any reasonable time.

I think that the demand of this district is as well founded as it could possibly be; that there is not any district in the United States with a greater claim for an additional judge; and I believe it should be granted. I thank the committee.

Mr. STEELE. Is it your observation that litigation grows in the same percentage as population?

Mr. DEMPSEY. I should say it grows, perhaps, faster, for this reason: When you have an increase in population, you have an increase in titles; you have an increase in new businesses; you bring in a great many new questions that do not arise in a community where rights are reasonably settled and where you do not have all of the stir and turmoil and all of the disturbances that come out of new businesses and new population. Do you not think that is true?

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Mr. STEELE. Yes; a manufacturing and industrial population has a larger percentage of litigation than an agricultural population.

Mr. DEMPSEY. I think that is true, and that is where this growth is entirely. Mr. Hicks referred to the tonnage on the Detroit River. There is a tremendous tonnage there, and it is a place where you will readily have marine cases, because you get good service on the boats that go down the river; and I would supplement that by saying the boats that go down in the river, because they have a very narrow channel there and have to use the utmost care so as to avoid collisions; they run in lanes so as to avoid collisions.

Mr. CURRIE. Mr. Chairman, I wish to present the introducer of the bill, Mr. Nichols.

STATEMENT OF HON. CHARLES A. NICHOLS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN.

Mr. NICHOLS. Mr. Chairman, and gentlemen of the committee: The gentleman from New York has said very nearly what I wanted to say to you to-day.

I would like, however, to impress upon the members of this committee the extraordinary and phenomenal growth of Detroit, not only from the standpoint of population figures, but in industrial development. There probably is not anything to compare with the record of Detroit in rapid industrial growth anywhere in the history of the United States. The growth of Detroit, both in population and in industry, has been so sudden and so rapid that few people outside the city of Detroit understand the situation as it exists there.

In that connection, I would like just to recite an incident of the war, to show how the governmental agencies in Washington do not appreciate the growth of Detroit. When the draft system was devised, Gen. Crowder sent to the city of Detroit 87,000 registration cards; he did that after consultation with Mr. Rogers, of the Bureau of the Census. He thought that 87,000 would be a sufficient number of registration cards, based on all ordinary calculations of growth.

When the registration took place in Detroit, from early morning until late at night, the polling booths of that city were besieged by countless thousands of the youth of that town; so that the mayor had to reach Gen. Crowder by long distance phone and ask permission to have more registration cards printed in the city of Detroit. And when the final count was made of the number of boys of the registration age who had registered in the city of Detroit, 155,000 names were found on the roll, showing you that the War Department here and the Bureau of the Census here had no appreciation whatever of the extraordinary growth of the city of Detroit.

I am not a lawyer, and I am not, therefore, professionally qualified to explain the necessity of having an additional judge in the eastern district of Michigan. But I am familiar with the situation and the conditions obtaining generally in Detroit and in the eastern district of Michigan. For instance, Mr. Dempsey of New York explained the situation——

Mr. STEELE (interposing). May I ask you right there, is the Michigan delegation unanimous in favor of this bill?

Mr. NICHOLS. Absolutely; I do not think there is any question about that. I do not want to burden you gentlemen any more with

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my discussion of this measure, except to say that I am confident that if you will study, not only the growth in population, but the wonderful and rapid and unusual and extraordinary growth in industry in the city of Detroit, you will see that we are here with a claim that is just and absolutely necessary.

Mr. GOODYKOONTZ. It seems to me, without questioning the claims of Detroit, that we are going to be beset with a large number of applications for duplication of Federal court machinery all over this country, growing out of this centralization of power in the Federal Government and the enforcement of the prohibition act, and all that sort of thing.

Mr. BOIES. Every lawyer, I think, appreciates that the injury to the client is greater than that to the profession in having great delays in the trial of their cases. Many a man has been ruined by a long delay in the completion of the litigation; he often has all he has in the world involved in a lawsuit, and if it is held up for years it may be the ruination of him financially.

Mr. CURRIE. My colleague, Mr. Doremus, desires to speak for a few minutes, Mr. Chairman.

Mr. BOIES. We will be glad to hear from him.

STATEMENT OF HON. FRANK E. DOREMUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN.

Mr. DOREMUS. I do not care to add any extended statement to what has been said.

Mr. Steele, I think, has suggested a very pertinent inquiry, and that is relative to the growth of business in the city of Detroit. It is conceded that there has been a tremendous increase of population. What Mr. Steele is interested in, and what I assume you gentlemen are all equally interested in, is to get an idea of the extent to which the business of the courts has kept pace with the growth of population. Now, if you gentlemen care to have it done, Mr. Hicks will have prepared a comparative statement showing the growth of business in that court.

Mr. STEELE. I think the committee would be very glad to have that.

Mr. DOREMUS. How many years back would you care to have it?

Mr. STEELE. Whatever you can conveniently furnish.

Mr. DOREMUS. Very well. I just want to give you gentlemen some idea of the growth of the business in the court there.

(The statement referred to is as follows:)

The following constitutes the statement of the business done in the eastern district of Michigan, comprising both the southern and northern divisions, as shown by the reports of the Attorney General of the United States for the years 1910 to 1919, inclusive:

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	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919
1. Criminal cases commenced	64	47	75	162	125	114	118	152	334	384
2. Criminal cases terminated	71	76	59	169	187	120	115	111	334	342
3. Criminal cases nolle prossed	16	24	8	22	68	13	7	8	47	62
4. Criminal cases quashed	.....	1	.....	4	.....	.....	.....	.....	62	6
5. Criminal cases, pleas of guilty	35	43	45	97	96	94	85	81	162	215
6. Criminal cases, jury trials	22	7	6	46	23	11	23	22	63	59
7. Convictions and sentences	48	49	48	140	115	103	105	102	220	263
8. Individuals sentenced to prison	25	17	20	88	119	70	59	75	177	164
9. Criminal fines collected	$2,369.18	$3,087.33	$3,965.12	$57,054.00	$5,631.00	$12,600.00	$8,665.00	$10,000.00	$21,615.00	$149,585.60
10. Civil judgments for United States	$6,738.61	$795.00	$3,742.22	$16,047.22	$17,873.64	$6,496.14	$652.31	$6,500.00	$13,312.02	$11,804.25
11. Admiralty cases commenced	36	29	.....	.....	32	29	20	23	15	13
12. Admiralty cases terminated	30	16	.....	.....	118	52	11	30	41	16
13. Admiralty cases, admiralty	$83,558.46	$136,359.71	.....	.....	$101,407.64	$22,803.16	$13,358.82	$3,870.00	$138,355.45	$73,460.57
14. Bankruptcy cases commenced	239	265	249	258	301	375	401	392	429	356
15. Bankruptcy cases terminated	235	231	237	227	156	423	327	398	347	487
16. Bankruptcy cases, liabilities	$2,865,421.13	$2,059,309.23	$3,329,115.26	$2,461,756.71	$1,776,229.81	$5,733,693.48	$6,628,970.55	$5,929,104.29	$3,478,349.14	$3,469,003.54
17. Net bankruptcy assets distributed	$214,202.74	$123,867.16	$337,252.19	$372,018.76	$142,464.72	$274,554.12	$645,669.98	$1,294,302.93	$2,617,565.28	$1,020,731.72
18. Other civil cases terminated	34	.....	113	1,259	1,710	233	1,836	118	83	111
19. Other civil cases, judgments	$79,752.25	.....	$74,772.17	$40,622.96	$354,082.37	$50,833.39	$39,214.11	$61,152.36	$135,396.17	$400,522.75
20. Other civil cases commenced	82	.....	170	117	129	105	121	110	92	96

NOTE.—These figures, in some instances, do not accurately reflect the business of the court. For example, in 1911, items 18, 19, and 20, relative to civil cases, are blank. This is due to the fact that the report from the district was not received in time for the Attorney General's report. Under item 18 for the years 1913, 1914, and 1916, it would appear that an abnormal number of cases were terminated. This is due to wholesale dismissal of old cases for want of progress. No comment is necessary in explanation of the variance of items 16 and 17 relating to bankruptcy, liabilities, and assets.

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Mr. BOIES. What is the probable increase in population of the city of Detroit during the past five years?

Mr. HICKS. In 1910 it was 465,000; it is over a million now.

Mr. DOREMUS. There is no doubt that it has doubled in about the last 5 years—certainly in less than 10 years.

Mr. HICKS. That is correct.

Mr. STEELE. This district, I understand, was established in 1878?

Mr. DOREMUS. Yes, in 1878.

Mr. CURRIE. Mr. Chairman, the supplemental brief submitted by Mr. Hicks will be furnished for insertion in the record.

Mr. BOIES. We will be glad to have it.

(The brief referred to will be found at the end of the proceedings of this date.)

Mr. CURRIE. Mr. Chairman, Representative Michener of Michigan is also present, and we should like to have him say a few words.

STATEMENT OF HON. EARL C. MICHENER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN.

Mr. MICHENER. I have not anything to say, Mr. Chairman; I could not add anything to what has been said, excepting this:

I live right at the edge of Detroit, the city of Wyandotte. They have been attempting in that city to condemn a post-office site since 1915; proceedings were started at that time in the United States district court; they have not yet reached the case. Within the last week I have been at the Post Office Department, and at the Treasury Department, and I have taken up the matter personally with the district attorney in Detroit; and I am advised that this matter will have to wait until the case can be reached.

That simply illustrates the idea that the property holders up there have some interest in this measure. Here is a valuable site in a city; proceedings have been started to condemn it; but those proceedings can not be pursued until the case is reached in the court. With that situation in mind, you can well see what it means; and I sincerely hope that the committee will consider this bill favorably.

Mr. BOIES. As a matter of curiosity, I would like to have this question answered, which has occurred to me a number of times; it does not pertain directly to this measure; but I do not know a better way to get the answer than to submit it to the members of the Michigan delegation who are here: Why was it that so many manufacturing interests, and particularly automobile manufacturers, centered in and about Detroit? How did it happen?

Mr. DOREMUS. Well, that is a difficult thing to explain; it just happened. In the early inception of the automobile business, it happened that the pioneers were Michigan people. That is true of the Ford, Dort, Oldsmobile, and others. It just so happened that the pioneers were Michigan people.

Mr. BOIES. Just as it happens that the poets in this country come mainly from Indiana? [Laughter.]

Mr. DOREMUS. Yes; that is the only explanation.

Mr. CURRIE. Let me submit this further explanation along that line: Once an industry of that kind gets started in a certain place, others will go to the same place, because, if they are manufacturing

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institutions, thay will find laborers skilled in that particular line. That is one reason why other automobile industries would favor Detroit, or some Michigan city, because there are men there who are skilled in that particular line.

Mr. HICKS. It seems to be the usual thing for the furniture business to center in Grand Rapids, in the same way, and the small towns around there.

Mr. CURRIE. And the Flint automobile business grew partly out of the carriage manufacturing business, I believe.

Mr. HICKS. Yes. Those manufacturers were wealthy men, and could not build carriages any more, and so they went into building automobiles.

Mr. CURRIE. I thank you very much for the hearing you have given to my colleagues and to Mr. Hicks. Mr. Hicks will prepare and file a supplemental brief on the subject.

(The following statements were subsequently furnished by Mr. Hicks for insertion in the record:)

Attached hereto is a statement, Exhibit A, furnished by the United States attorney, indicating the present condition of the criminal docket. It should be noted in reference to this that a very large amount of business is coming into the Federal court on account of the prohibition law. It should also be explained that the grand jury is just now convened for the March term and it is expected that at least 150 additional indictments will be returned, thus further congesting the criminal docket.

EXHIBIT A.

DETROIT, *March 1, 1920.*

Mr. ARTHUR P. HICKS,
917 Ford Building, Detroit, Mich.

DEAR MR. HICKS: The following is the information which you requested with reference to the accumulation of work in this office, and the cases now pending before the Federal court:

Number of indictments returned during the year 1919	425
Number of defendants included in said indictments	490
Number of convictions either by trial or plea of guilty during the year 1919	332
The amount of fines imposed, together with penalties and forfeitures, actually collected and paid to the clerk of the court during the year 1919	$195,500
Number of indictments returned by grand jury during the November term of court, being the term commencing in November, 1919, and ending on the 2d day of March, 1920	237
Number of criminal cases now pending in the court	206

Of the criminal cases now pending 123 consist of pleas of not guilty entered, and stand ready for trial.

The number of civil cases pending is 34, and among them are the following: The condemnation suit for the lands forming part of the site of Camp Custer, near Battle Creek, Mich., pending since June, 1919; also the condemnation on the part of the Government to acquire the necessary rights ofr improvement of River Rouge, pending many months; also the condemnation suit for Selfridge Field, being the aviation camp established during the war near Mount Clemens; and also the condemnation suit for the testing ground in Springwells Township, Wayne County.

Respectfully,

——— ———,
United States Attorney.

P. S.—Attached hereto is a list of the criminal cases now pending in the district court for the eastern district of Michigan.

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PENDING CASES.

6879. Mount Clemens Sugar Co. Lever act.
6878. Mount Clemens Sugar Co. Lever act.
6877. Mount Clemens Sugar Co. Lever act.
6876. Mount Clemens Sugar Co. Lever act.
6875. Thomas N. Mordue et al. Lever act.
6874. Thomas N. Mordue, jr. Lever act.
6873. Harry S. Ayers et al. Lever act.
6872. Harry S. Ayers et al. Lever act.
6870. Abe Rosenberg et al. Section 11, railroad contract act.
6869. Valentine Jarosz. Aiding to evade draft. Section 6 S. S. L.
6868. George L. Neese. Section 3242 Revised Statutes and war-time prohibition act.
6865. Thomas Washington. Narcotic law.
6864. Irene Melrose. Narcotic law.
6863. Samuel Goldstein. Narcotic law.
6861. Moses Remer. Car-seal act.
6860. Thomas Bourke et al. Car-seal act.
6859. Ben Feldman et al. Car-seal act.
6858. James Koheufus. Car-seal act.
6857. Rebecca Friedman. Car-seal act.
6856. Rebecca Friedman. Car-seal act.
6855. Fred Gilbert et al. Car-seal act.
6854. Mike Schlumba et al. Car-seal act.
6853. Fred Gilbert et al. Car-seal act.
6852. Abe Rosenberg et al. Section 47, C. C.
6847. John Babic. Illicit still.
6844. Quincy S. Ting. Section 176, C. C. (mutilating United States currency).
6843. Ralph Chisholm. Narcotic law.
6842. Harry Snyder. Section 194, C. C.
6841. Clarence Dillon. Using mails to defraud.
6840. Twentieth Century Drug Co. et al. Section 3242 Revised Statutes and war-time prohibition law.
6838. Harry Calhoun. Section 148, C. C.
6837. George Popovich. Counterfeiting.
6835. Moses Remer. Section 48, C. C.
6834. Abe Rosenberg et al. Section 47, C. C.
6833. Andrew Lukianow. Perjury.
6831. Walter Zuzhelkowski. Impersonating Government officer.
6830. William E. Hanna et al. Impersonating Government officer.
6828. Wilbur W. Willets et al. Car-seal act.
6825. John Weimar. Reed amendment.
6823. Telesfor Zielinski. Reed amendment.
6822. Jan Kwiatkowski. Illicit still.
6821. Blaz Sabagy. Illicit still.
6820. Peter Mazanek. Illicit still.
6818. George Ralich. Illicit still.
6816. William Stearns. Section 3265, Revised Statutes, and act February 8, 1875, manufacturing stills.
6815. Joseph Rottenberg et al. Section 3242, Revised Statutes, and war-time prohibition act.
6814. George Nugent. Smuggling liquor from Canada.
6812. Richard J. Anderson. Section 194, C. C.
6811. T. B. Spence. Section 215, C. C.
6810. Richard J. Anderson. Section 148, C. C.
6808. Carolina Taylor. Sections 148–151, C. C.
6805. Clarence A. Allen. Section 148, C. C.
6804. Grace Allen. Section 148, C. C.
6799. Robert E. Black et al. Section 3082, Revised Statutes, and section 5785.
6798. Elmer Rau et al. Reed amendment.
6795. Nicholas Bergen. Section 3082, Revised Statutes.
6794. Edward Cramer. Section 3082, Revised Statutes.
6793. Mount Clemens Sugar Co. Lever Act.
6792. James Davidson and Mount Clemens. Lever Act.
6790. Joseph Dhamvers. Section 212, C. C.

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6789. Oscar Sather. Section 211, C. C.
6788. Charles Barone. Section 218, C. C.
6787. Walter Welch. Section 194, C. C.
6786. Guy Mullen. Section 16, chapter 29, act of February 5, 1917. Assaulting immigration officer.
6777. Lee Jim et al. Mann Act.
6776. Eli Manta. Section 32, P. C.
6775. May Meyers. Section 13, S. S. L.
6774. James Ermisch. Section 47, C. C.
6771. Martin Talarek. Reed amendment.
6768. Tony Mikonowicz. Reed amendment.
6765. Louis Silverman. Illicit still.
6763. Frank T. Stith. Narcotic law.
6762. Nathan Marcus. Illicit still.
6761. Harry M. Nuttal. Narcotic law.
6760. William Garrity. Narcotic law.
6759. Edward Zuardo. Car-seal act.
6758. James Hollway et al. Car-seal act.
6757. Joseph Kosebutsky. Car-seal act.
6751. Ernest Fassio. Section 195, C. C.
6747. Charles Ruoff. Section 195, C. C.
6746. Walter Stockman. Section 195, C. C.
6745. Isaiah Blake. Section 194, C. C.
6743. Michael Seech. Section 215, C. C.
6742. Mike Stanley Sweet. Section 207, C. C.
6737. James Ross Cameron et al. Sections 190 and 218, C. C.
6732. Jay Deming. Reed amendment.
6730. Steve Astiken et al. National prohibition law.
6729. Fred Davis et al. National prohibition law.
6728. Louis Cowan et al. National prohibition law.
6725. Peter Lusch. National prohibition law.
6724. Raymond Donohoe et al. Car-seal act.
6723. George Beltz. Car-seal act.
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6713. John Berry. Illicit still.
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6710. Ignatz Janusz. Illicit still.
6707. Arterio Gieuliano. Illicit still.
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6705. Joseph Pelligrini. Illicit still.
6704. Ignacy Temerowsky. Illicit still.
6703. Michael Fobb. Illicit still.
6701. Aban Sorgoh. Illicit still.
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